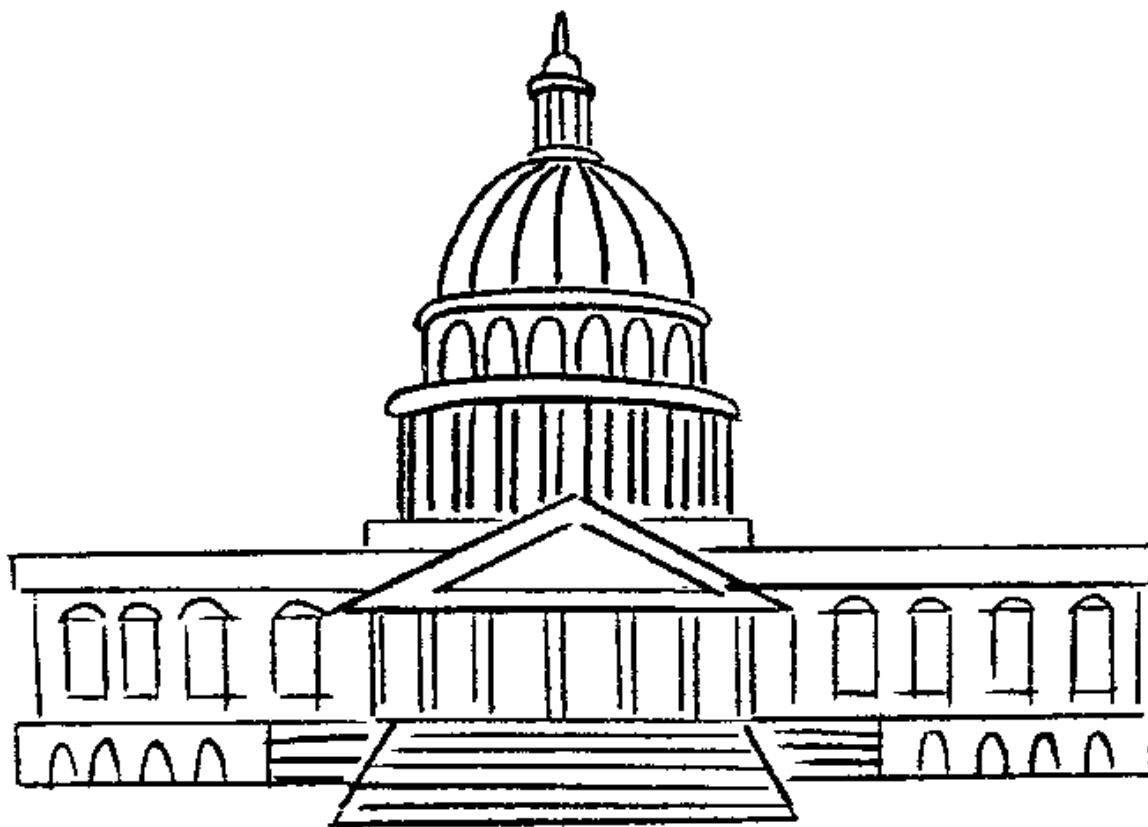


1998 Legislative Summary Report



State of California
Environmental Protection Agency
Department of Pesticide Regulation
James W. Wells, Director

STATE OF CALIFORNIA

Pete Wilson
Governor

Peter M. Rooney
Secretary for Environmental Protection
California Environmental Protection Agency

DEPARTMENT
OF
PESTICIDE REGULATION

James W. Wells
Director

December 1998

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Introduction

The Department of Pesticide Regulation (DPR) is an agency within the California Environmental Protection Agency (Cal/EPA). Cal/EPA was created by Governor Pete Wilson in 1991, to combine environmental programs previously administered by six separate State agencies. The six environmental agencies within Cal/EPA include DPR, the Department of Toxic Substances Control, the State Water Resources Control Board, the Integrated Waste Management Board, the Air Resources Board, and the Office of Environmental Health Hazard Assessment.

DPR is charged with the responsibility to administer California's statewide pesticide regulatory program, the largest of its kind in the nation. Before a pesticide can be possessed, sold, or used in California, the pesticide must be registered by DPR. Prior to registration, DPR's scientific staff review each product to ensure that it meets stringent standards, as prescribed in the laws (Food and Agricultural Code) and regulations (California Code of Regulations) governing pesticides in California. Reviews of data include, but are not limited to the chemical properties of the product, intended use patterns, potential human health effects, and environmental fate of the product. The laws and regulations governing the possession, sale, and use of pesticides are enforced by DPR in cooperation with the Office of the County Agricultural Commissioner (CAC) within each county.

This summary contains brief descriptions of the legislation followed by DPR's Office of Policy Coordination and Continuous Improvement during the second year of the 1997-98 Legislative Session. During the session, DPR monitored over 200 bills and actively tracked and analyzed 60 of those bills.

Urgency bills signed by the Governor took effect immediately upon his signature. Other legislation signed by the Governor in 1998 take effect on January 1, 1999.

For an electronic version of this summary, please refer to DPR's Internet Home Page at the following address: <http://www.cdpr.ca.gov>. You will find this Legislative Summary report under the "Legislation, Regulations, and Planning" site. Limited hard copies of this summary are also available through DPR's Office of Policy Coordination and Continuous Improvement, 830 K Street, Sacramento, California 95814-3510.

Acronyms

AB	Assembly Bill
ACR	Assembly Concurrent Resolution
ALJ	Administrative Law Judge
APA	Administrative Procedures Act
ARB	Air Resources Board
CAC	County Agricultural Commissioner
Cal/EPA	California Environmental Protection Agency
CCC	California Coastal Commission
CCR	California Code of Regulations
CDFA	California Department of Food and Agriculture
CDHS	California Department of Health Services
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CIWMB	California Integrated Waste Management Board
DBW	Department of Boating and Waterways
DFG	Department of Fish and Game
DIR	Department of Industrial Relations
DPR	Department of Pesticide Regulation
DTSC	Department of Toxic Substances Control
FAC	Food and Agricultural Code
FSA	Food Safety Account
HSC	Health and Safety Code
OAL	Office of Administrative Law
OEHHA	Office of Environmental Health Hazard Assessment
OES	Office of Emergency Services
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SPCB	Structural Pest Control Board
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
U.S. EPA	United States Environmental Protection Agency
VOC	Volatile organic compound

Section I--Bill Subject Index

The Bill Subject Index section of this summary identifies legislative bills, tracked by DPR during the 1998 legislative session, containing similar subject matter. For each bill, we have provided information on its status, author, and title. The status indicates whether the bill was chaptered, vetoed, died due to failure to meet legislative schedule deadlines, failed in committee, or was withdrawn by the bill author; the author is the name of the legislative member who introduced the bill into the Legislature for consideration; and the title indicates the general subject matter addressed in the bill.

Administration

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 118	Vetoed	Cardenas	Social Security Numbers
AB 278	Vetoed	Escutia	Environmental Protection
AB 1134	Chapter 651	Machado	Structural Pest Control
AB 1235	Died	Leach	Administrative Regulations
AB 2503	Failed Passage	Goldsmith	State Agencies: continuation
AB 2757	Died	Ag Committee	DPR: refunds
ACA 35	Failed Passage	Goldsmith	Administrative Regulations
SB 38	Failed Passage	Johannessen	Taxation
SB 58	Died	Ayala	State Agencies Legislative Analyses
SB 178	Died	Keeley	Administrative Adjudication
SB 261	Failed Passage	Kopp	Judicial Review
SB 442	Died	Brulte	Toxic Chemicals
SB 1132	Failed Passage	Polanco	Prison Industry Authority
SB 1609	Died	Ayala	State Forms

Air Emissions/Quality

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Died	Escutia	Environmental Protection
AB 1376	Died	Baugh	Air Pollution
AB 2652	Died	Cardoza	Agricultural burning
SB 442	Died	Brulte	Toxic Chemicals
SB 661	Chapter 274	O'Connell	Lompoc Air Monitoring

Agricultural Land

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1081	Died	House	Irrigated Agricultural Land
AB 2502	Failed Passage	Olberg	Land use: agriculture
SB 1182	Chapter 353	Costa	Farmland Security Zones
SB 1402	Failed Passage	McPherson	Taxes: irrigation
SB 1835	Chapter 690	Johnston	Williamson Act Contracts

Analytical Methods

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection

Biologically Integrated Farming Systems

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1998	Chapter 434	Thomson	BIFS Funding Reauthorization

Business License

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1134	Chapter 651	Machado	Structural Pest Control
SB 209	Failed Passage	Kopp	Judicial Review
SB 261	Failed Passage	Kopp	Judicial Review

California Environmental Quality Act

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2397	Chapter 272	Bowen	Environmental Quality
SB 715	Vetoed	Sher	Environmental Quality

Civil Procedure

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1134	Chapter 651	Machado	Structural Pest Control
SB 178	Died	Monteith	Administrative Adjudication
SB 209	Failed Passage	Kopp	Judicial Review
SB 261	Failed Passage	Kopp	Judicial Review

Coastal Water

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1000	Died	Keeley, et al.	Clean Coastal Waters and Rivers

Continuing Education

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 155	Chapter 621	Kelley	Veterinarian continuing education

County Agricultural Commissioners

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 505	Died	Ashburn	Pest Control Activities
AB 891	Died	Keeley	Pesticide Mill Tax
AB 1134	Chapter 651	Machado	Structural Pest Control
AB 2632	Died	Thompson	Ethanol Fuel

Enforcement/Compliance

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 505	Died	Ashburn	Pest Control Activities
AB 1134	Chapter 651	Machado	Structural Pest Control
AB 1625	Chapter 431	Richter	Fish and Game Penalties
AB 2308	Withdrawn	House	Unlawful to Restrict Access
AB 2757	Withdrawn	Agriculture Committee	Refund Authority
SB 1704	Withdrawn	Monteith	Corporate Licensing, Unlawful to Restrict Access, & Refund Authority

Environmental Advertizing/Audits/Reports

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1393	Died	Alquist	State/Local Government
AB 2757	Died	Ag Committee	DPR: refunds

Environmental Education

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2199	Vetoed	Washington	Conservation Education

Environmental License Plate Fund

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2455	Failed Passage	Strom-Martin	Fees

Environmental Regulation

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
ACA 34	Failed Passage	Poochigian	Environmental Improvement
SB 715	Vetoed	Sher	Environmental Quality
SB 1047	Vetoed	Sher	Environmental Protection
SB 1784	Died	Hayden	Biodiversity/Habitat

Ethics Training

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2179	Chapter 364	Asm. Special Cmte.	State: ethics orientation

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Fish and Game

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2404	Failed Passage	Shelley	Sea Life Conservation Act

Food Safety Funds

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	Died	Keeley	Pesticide Mill Tax

Hazardous Waste

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 921	Chapter 295	Wayne	Haz. Waste Strike Force
SB 1916	Chapter 881	Sher	Toxic Chemical Releases
SB 1943	Failed Passage	Sher	Fertilizer materials

Health and Safety

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
SB 442	Died	Brulte	Toxic Chemical
SB 715	Vetoed	Sher	Environmental Quality

Internet

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1169	Vetoed	Shelley	State information posting
AB 2237	Vetoed	Escutia	Environmental loans/grants
AB 2480	Failed Passage	Prenter	Grant/Loan availability
SB 715	Vetoed	Sher	CEQA
SB 1047	Vetoed	Sher	CEQA
SB 2119	Died	Hurt	Reports to the Legislature

Local Government

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2621	Chapter 1038	Hertzberg	Local Gov't Reorganization

Medical Records

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 379	Died	Rosenthal	Workers' Compensation
SB 1430	Chapter 624	Solis	Workers' Compensation Records

Mill Assessment

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	Died	Keeley	Pesticide Mill Tax

Performance Audits

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1393	Died	Alquist	State and Local Government

Permits

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 649	Failed Passage	Mountjoy	Environmental Regulations

Pest Exclusion

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2283	Chapter 870	Asm. Ag. Committee	Pest Exclusion Funding Act

Pesticides

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
AB 505	Died	Ashburn	Pest Control Activities
AB 891	Died	Keeley	Pesticide Mill Tax
AB 1134	Chapter 651	Machado	Structural Pest Control
AB 2617	Died	Figueroa	Methyl Bromide
SB 1704	Withdrawn	Monteith	Licensing, access, refunds
SB 1831	Died	Kelley	Purpose of law
SJR 44	Died	Monteith	Methyl Bromide

Pesticide Contamination/Monitoring

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
SB 661	Chapter 274	O'Connell	Lompoc Air Monitoring

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Pesticide Data

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection

Pesticide Products

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	Died	Keeley	Pesticide Mill Tax

Public Information/Accessibility/Guidelines

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1169	Vetoed	Shelley	Posting Information
SB 134	Died	Ayala	Public Records
SB 143	Chapter 620	Kopp	Public Records
SB 261	Failed Passage	Kopp	Judicial Review
SB 379	Died	Rosenthal	Medical Records
SB 423	Failed Passage	Hurt	Environmental Audit Reports
SB 1430	Chapter 624	Solis	Worker's Comp. Records

Regulations/Procedure

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
AB 505	Died	Ashburn	Pest Control Activities
AB 1134	Chapter 651	Machado	Structural Pest Control
AB 1235	Died	Leach	Administrative Regulations
ACA 35	Failed Passage	Goldsmith	Administrative Regulations
SB 178	Died	Monteith	Administrative Hearings
SB 209	Failed Passage	Kopp	Judicial Review
SB 261	Failed Passage	Kopp	Judicial Review
SB 649	Failed Passage	Mountjoy	Environmental Regulations
SB 715	Vetoed	Sher	Environmental Quality

Schools

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1948	Died	Shelley	Pesticide Right to Know Act
SB 1942	Vetoed	Sher	Least toxic pest management

Scientific Evidence (Standards)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
AB 2231	Vetoed	Aroner	Fish/Shellfish Consumption
AB 1134	Chapter 651	Machado	Structural Pest Control
SB 178	Died	Monteith	Administrative Adjudication
SB 442	Died	Brulte	Sensitive Subpopulations
SB 658	Vetoed	Sher	Regulation Peer Review Report

State Funds

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	Died	Keeley	Pesticide Mill Tax
AB 1179	Died	Woods	Watershed Rehabilitation and Restoration

State Mandated Local Programs

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 1855	Chapter 780	Thompson	Payment of Claims

Structural Pest Control

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 505	Died	Ashburn	Pest Control Activities
AB 1134	Chapter 651	Machado	Structural Pest Control

Volatile Organic Compounds

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1376	Died	Baugh	VOC Content: products

Water Quality

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1000	Died	Keeley	Coastal Waters Bond Act
AB 1179	Died	Woods	Watershed: statewide plan
AB 2019	Chapter 998	Kuehl	Storm Water Discharge
AB 2339	Vetoed	Sweeney	Toxic Hot Spots
AB 2666	Died	Perata	Recycled water: grants
SB 1453	Vetoed	Alpert	Nonpoint Source Pollution

Water Quality, (Cont'd)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 1852	Chapter 437	Kelley	Disposal Systems
SB 2193	Died	Knight	Drinking water

Wetlands Protection

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 2587	Died	Ducheny	SF Bay Dredging

Written Communication

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	Vetoed	Escutia	Environmental Protection
SB 74	Vetoed	Kopp	Records

Section II --1998 Chaptered Legislation: Summary

The following information summarizes the content of legislative bills which were signed by Governor Wilson and chaptered by the Secretary of State during the 1998 legislative session, which impact, or have potential to impact DPR and the pesticide regulatory program

Assembly Bills

AB 921 Wayne - Hazardous Waste Strike Force
(Chapter 295, Statutes of 1998)

Existing provisions of the Health and Safety Code require the Department of Toxic Substances Control to establish a statewide Hazardous Waste Strike Force, consisting of representatives from specified State agencies. This bill adds the Office of Environmental Health Hazard Assessment to the list of State Agencies represented on the Task Force.

AB 1134 Machado - Structural Pest Control Devices
(Chapter 651, Statutes of 1998)

This bill requires that structural pest control devices intended to control wood destroying pests must be registered with the Department of Pesticide Regulation (DPR) by July 1, 2001, or their continued sale and use in California become unlawful. The bill gives primary responsibility for enforcement and device registration to DPR; however, the Structural Pest Control Board (SPCB) shares responsibility for enforcement.

AB 1625 Richter - Fish and Game: penalties
(Chapter 431, Statutes of 1998)

This bill specifies penalties and liability for a person placing or planting any aquatic nuisance species in the waters of the state without written permission from the Department of Fish and Game. The bill also establishes rewards for any person providing information that leads to the arrest and conviction of a person committing such a crime.

AB 1671 Keeley - Fish and Game Preservation Fund: appropriation
(Chapter 1060, Statutes of 1998)

This bill transfers \$7,000,000 from the General Fund to the Fish and Game Preservation Fund, hereby making an appropriation.

1998 Legislative Summary

AB 1998 Thomson, et al. - Agricultural chemical reduction pilot demonstration projects
(Chapter 434, Statutes of 1998)

This bill reauthorizes within the University of California (UC) a program of pilot demonstration projects designed to provide extension services, training, and financial incentives for participating farmers to implement biologically integrated farming systems, as specified. The program would go into effect only upon adoption of a resolution by the UC Regents and would reauthorize a program advisory review board to consult with UC regarding the program.

AB 2019 Kuehl, et al. - Storm water discharge
(Chapter 998, Statutes of 1998)

This bill enacts the Storm Water Enforcement Act of 1998 to enhance enforcement of storm water run-off permit requirements.

AB 2179 Special Committee on Assembly Legislative Ethics - State agencies: ethics orientation
(Chapter 364, Statutes of 1998)

This bill requires all State agencies to offer, at least twice a year, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of State officials. All filers would be required to take the course at least once every two years.

AB 2283 Assembly Agriculture Committee - Pest Control
(Chapter 870, Statutes of 1998)

This bill creates the Pest Exclusion Funding Act, providing for the development by the California Department of Food and Agriculture and the County Agricultural Commissioners of a pest exclusion work plan for allocation of funding appropriated in the Budget Act of 1998.

AB 2397 Bowen - Environmental quality: waste disposal facilities
(Chapter 272, Statutes of 1998)

This bill establishes that projects of federal agencies are subject to the California Environmental Quality Act (CEQA) by making the following changes: 1) Adds, to the CEQA definition of "person", the United States or any of its agencies or political subdivisions, to the extent permitted by federal law. 2) Makes legislative findings and

AB 2397 (Con'td)

declarations that CEQA is an integral part of any public agency's decision making process including the issuance of permits, licenses, certificates, or other entitlement required for activities under federal statutes containing specific waivers of sovereign immunity. 3) Makes legislative findings and declarations that the changes made above are declaratory of existing law.

AB 2621 Hertzberg - Local government reorganization
(Chapter 1038, Statutes of 1998)

This bill specifies that appointees to the Commission on Local Governance for the 21st Century shall serve until the date the commission is repealed, extends the date for the report until December 31, 1999, and provides that the commission shall remain in existence until July 1, 2000.

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Senate Bills

SB 143 Kopp - Public Records
(Chapter 620, Statutes of 1998)

This bill revises the definitions of local agency and "writing" and defines "public agency" in relation to the Public Records Act. The bill also provides for public inspection of public records and copying in all forms, as specified. The bill further requires public agencies to ensure that systems used to collect and hold public records be designed to ensure ease of public access. This bill expressly states that notwithstanding the definition of "member of the public," an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person and would state that it is declaratory of existing law. This bill would incorporate changes made to the California Public Records Act by the Governor's Reorganization Plan of 1991, including adding the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment to the list of state and local bodies that are required to establish written guidelines for accessibility of records.

Existing law provides that the California Public Records Act shall not be construed to require disclosure of records, the disclosure of which is exempted or prohibited by provisions of federal or state law. This bill would list specific provisions of law coming within that exemption.

SB 155 Kelley - veterinary medicine: license renewal: continuing education
(Chapter 621, Statutes of 1998)

Initially, this bill would have extended a sunset on structural pesticide fumigation enforcement pilot programs in Los Angeles and Orange counties until January 1, 2000. The bill also would have eliminated the structural pesticide fumigation enforcement pilot program in San Diego county effective January 1, 1999. These provisions were deleted from the bill in the Assembly. The bill now prescribes mandatory continuing education requirements for veterinarians.

SB 661 O'Connell - Lompoc Air Monitoring
(Chapter 274, Statutes of 1998)

This bill appropriates \$145,000 from the General Fund to the

SB 661, (Cont'd)

Department of Pesticide Regulation for the purposes of conducting air monitoring in Lompoc, California, to assess the potential contribution of pesticides in the ambient air to health concerns in the community.

SB 1182 Costa - Agricultural Land: Preservation Programs: Farmland Security Zones
(Chapter 353, Statutes of 1998)

This bill allows a landowner or group of landowners that have a traditional 10-year rolling Williamson Act contract to petition county boards of supervisors to enter into a 20-year rolling contract, which would designate the property a farmland security zone (FSZ), as specified. Land in an FSZ shall be eligible for specified tax and other benefits including exemption from potential location of public school facilities and other exemptions.

SB 1430 Solis - Workers' Compensation: privacy
(Chapter 624, Statutes of 1998)

Existing law limits public and private access to Workers' Compensation data collected and maintained by the Department of Industrial Relations (DIR). This bill adds criteria necessary for release of individually identifiable information maintained by DIR.

SB 1835 Johnston - Land use: Williamson Act contracts
(Chapter 690, Statutes of 1998)

This bill clarifies and makes technical changes to provisions of the Williamson Act realign to contracts. Specifically, this bill requires cities, when annexing land under the Williamson Act contract, to file a "Certificate of Contract Termination" with the final annexation documents filed by the Local Agency Formation Commission. The bill requires landowners and the county to agree to transfer the property from a Williamson Act contract to an Open Space Easement Act requiring the easement be at least as restrictive as the contract. The bill extends the time line that permits local officials and landowners to rescind multiple Williamson Act contract to facilitate a lot line adjustments, from 2001 to 2003.

1998 Legislative Summary

SB 1852 Kelley - Water quality: disposal systems
(Chapter 437, Statutes of 1998)

This bill requires the Colorado River Basin Regional Water Quality Control Board, by January 1, 2004 if resources are available, to prohibit waste discharges from septic tanks that overlie either the Mission Creek Aquifer or the Desert Hot Springs Aquifer in Riverside County under the following circumstances: 1) Prohibits these discharges from parcels smaller than one-half acre if there is an available sewer system within 200 feet of the dwelling; 2) Limits to two per acre, for parcels larger than one-half acre, the number of single family dwellings with septic tanks.

SB 1855 Thompson - State-mandated local programs: payment of claims
(Chapter 780, Statutes of 1998)

This bill appropriates \$86,286,381.03 from the General Fund to the Controller. From these funds, \$23,462,000 would be allocated for the payment of claims by local agencies and school districts for reimbursement for state-mandated local costs, \$62,823,000 is allocated to pay for deficiencies, and \$1,381.03 is allocated from the Tax Relief and Refund Account for payment of a specified claim, in accordance with a specified schedule.

SB 1916 Sher - Hazardous waste source reduction: toxic chemical releases
(Chapter 881, Statutes of 1998)

This bill specifies uses for funds administered by the Department of Toxic Substances Control (DTSC) to encourage implementation of pollution prevention measures by hazardous waste generators. The bill also creates the California Source Reduction Advisory committee as an advisory panel to DTSC.

Major Chaptered Bills: Text

Several bills chaptered during the 1998 legislative session will have direct impact on California's pesticide regulatory program. The complete chaptered text of those bills are included on the following pages.

BILL NUMBER: AB 1134 (Machado) - Structural Pest Control Devices
CHAPTERED 09/21/98

CHAPTER 651

FILED WITH SECRETARY OF STATE SEPTEMBER 21, 1998
APPROVED BY GOVERNOR SEPTEMBER 20, 1998
PASSED THE ASSEMBLY AUGUST 27, 1998
PASSED THE SENATE AUGUST 26, 1998
AMENDED IN SENATE AUGUST 20, 1998
AMENDED IN SENATE JUNE 23, 1998
AMENDED IN SENATE MARCH 31, 1998
AMENDED IN SENATE MARCH 9, 1998
AMENDED IN SENATE JULY 17, 1997
AMENDED IN ASSEMBLY MAY 23, 1997
AMENDED IN ASSEMBLY APRIL 16, 1997
AMENDED IN ASSEMBLY APRIL 1, 1997

INTRODUCED BY Assembly Member Machado

FEBRUARY 28, 1997

An act to amend Section 8646 of, and to add and repeal Section 8674.5 of, the Business and Professions Code, and to amend Sections 12996, 12998, 12999, 12999.4, 12999.5, and 15205 of, to add Section 12999.2 to, and to add Chapter 7.5 (commencing with Section 15300) to Division 7 of, the Food and Agricultural Code, relating to structural pest control, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1134, Machado. Structural pest control.

(1) Existing law requires each person who pays a pesticide use report filing fee to pay, in addition, a fee of \$2 for each pesticide use stamp purchased from the Structural Pest Control Board.

This bill would require each person who pays a license fee pursuant to specified provisions of existing law to pay, in addition, until January 1, 2002, a fee of 25 for each "Inspection Report" stamp and "Notice of Work Completed" stamp purchased from the board. The bill would require the revenue derived from these fees to be deposited into the Structural Pest Control Device Fund, which would be created by the bill as a special fund in the State Treasury. The bill would require that 5% of the amount collected and deposited in the fund be available to the board for administrative costs upon appropriation in the annual Budget Act. The bill would

AB 1134 (Machado) - Structural Pest Control Devices, Cont'd

continuously appropriate the balance in the fund to the Department of Pesticide Regulation for its costs incurred pursuant to specified provisions added by the bill.

(2) Existing law requires each structural pest control licensee to make all existing records pertaining to pesticide use available to the Director of Pesticide Regulation or county agricultural commissioner, as specified.

This bill would require each registered structural pest control company to make all existing records to pesticide use and structural pest control device use available to the director, the Structural Pest Control Board, or commissioner, as specified.

(3) Existing law provides for the licensing and regulation of structural pest control operators but does not require the registration of structural pest control devices. Under existing law, a violation of the provisions relating to structural pest control is a crime.

This bill would require the director to regulate structural pest control devices, as defined.

The bill would make it unlawful, on and after July 1, 2001, for any person directly, or through another, to manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease, sell, lease, possess, or use any structural pest control device in this state that is not registered pursuant to this bill, or for which the registration has been suspended or canceled, except as specified. The bill would authorize the director, in certain circumstances, to grant reasonable extensions of time for the submission or review, or both the submission and review, of data in support of an application for registration for devices in use in this state prior to January 1, 2001.

The bill would authorize the director to establish performance standards and tests of structural pest control devices and would authorize the director to refuse to register or to cancel a registration under specified circumstances. The bill also would authorize the director to issue a device research permit for the scientific evaluation of new devices for a limited period of time.

The bill would prescribe requirements relating to labeling and limitations of warranty with respect to the use of the device.

The bill would provide for seizure or quarantine of structural pest control devices by the director under certain conditions.

The bill would provide for the imposition of civil penalties for violation of its provisions.

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The bill would authorize the director to establish an ad hoc committee to advise the department regarding the structural pest control device registration program.

(4) Because, under existing law, a violation of any provision of the bill would be a misdemeanor, this bill would impose a state-mandated local program by creating a new crime.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) California consumers are increasingly interested in nonchemical pest control, especially in and around the home.

(2) Pesticides must be evaluated and registered by the state prior to their sale and use.

(3) For the protection of consumers, applicators, and both the home and ambient environment, structural pest control devices also need to be evaluated and registered by the state prior to their sale and use.

(b) It is the intent of the Legislature, in establishing regulatory requirements for the use of structural pest control devices, to minimize the potential for misrepresentation, inadequate pest control, and hazards while encouraging the development of pest control techniques that are alternatives to pesticides.

SEC. 2. Section 8646 of the Business and Professions Code is amended to read:

8646. Disregard and violation of pesticide use and application, structural pest control device, fumigation, or extermination laws of the state or of any of its political subdivisions, or regulations adopted pursuant to those laws, is a ground for disciplinary action.

SEC. 3. Section 8674.5 is added to the Business and Professions Code, to read:

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8674.5. (a) There is hereby created in the State Treasury a special fund known as the Structural Pest Control Device Fund. Each person who pays a license fee pursuant to this chapter, in addition, shall pay a fee of twenty-five cents (\$0.25) for each "Inspection Report" stamp and "Notice of Work Completed" stamp purchased from the board. Funds derived from the additional twenty-five cents (\$0.25) shall be deposited in the Structural Pest Control Device Fund.

(b) Five percent of the amount collected and deposited in the Structural Pest Control Device Fund shall be available to the board for administrative costs upon appropriation in the annual Budget Act. The balance in the fund is hereby continuously appropriated to the Department of Pesticide Regulation for costs incurred by that department pursuant to Chapter 7.5 (commencing with Section 15300) of Division 7 of the Food and Agricultural Code.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends that date.

SEC. 4. Section 12996 of the Food and Agricultural Code is amended to read:

12996. (a) Every person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or by imprisonment of not more than six months, or by both fine and imprisonment. Upon a second or subsequent conviction of the same provision of this division relating to pesticides, a person shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or by imprisonment of not more than six months or by both fine and imprisonment. Each violation constitutes a separate offense.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the offense involves an intentional or negligent violation that created or reasonably could have created a hazard to human health or the environment, the convicted person shall be punished by imprisonment in the county jail not exceeding one year or in the state prison or by fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000), or by both the fine and imprisonment.

(c) This section does not apply to violations of Chapter 7.5 (commencing with Section 15300).

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SEC. 5. Section 12998 of the Food and Agricultural Code is amended to read:

12998. Any person who violates this division relating to pesticides or structural pest control devices, or any regulation issued pursuant to a provision of this division relating to pesticides or structural pest control devices, is liable civilly in an amount not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) for each violation. Any person who commits a second or subsequent violation that is the same as a prior violation or similar to a prior violation or whose intentional violation resulted or reasonably could have resulted in the creation of a hazard to human health or the environment or in the disruption of the market of the crop or commodity involved, is liable civilly in an amount not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each violation. Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department in administering this division, and Division 6 (commencing with Section 11401).

SEC. 6. Section 12999 of the Food and Agricultural Code is amended to read:

12999. Upon a complaint by the director, or by the Structural Pest Control Board in the case of violations of Chapter 7.5 (commencing with Section 15300) or regulations adopted pursuant to that chapter relating to structural pest control devices, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating any provision of this division, or any regulation issued pursuant to it. The Attorney General may bring an action for civil penalties on his or her own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred.

SEC. 7. Section 12999.2 is added to the Food and Agricultural Code, to read:

12999.2. The remedies or penalties provided by this division are in addition to the remedies or penalties available under any other law.

SEC. 8. Section 12999.4 of the Food and Agricultural Code is amended to read:

12999.4. (a) In lieu of civil prosecution by the director, the director may levy a civil penalty against a person violating Sections 12115, 12116, 12671, 12992, 12993, Chapter 10 (commencing with Section 12400) of Division 6, Article 4.5 (commencing with Section 12841), Chapter 7.5 (commencing with Section 15300), or the regulations adopted pursuant to those provisions, of not more than five thousand dollars (\$5,000) for each violation.

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(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the director's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the director may take the action proposed without a hearing.

(c) If the person against whom the director levied a civil penalty requested and appeared at a hearing, the person may seek review of the director's decision within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the review procedure provided in this section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county.

Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

(e) Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department, upon appropriation, in administering this division and Division 6 (commencing with Section 11401).

SEC. 9. Section 12999.5 of the Food and Agricultural Code is amended to read:

12999.5. (a) In lieu of civil prosecution by the director, the commissioner may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with Section 12971) or Article 10.5 (commencing with Section 12980) of this chapter, Section 12995, Article 1 (commencing with Section 14001) of Chapter 3, Chapter 7.5 (commencing with Section 15300), or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars (\$1,000) for each violation.

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(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the commissioner may take the action proposed without a hearing.

(c) If the person upon whom the commissioner levied a civil penalty requested and appeared at a hearing, the person may appeal the commissioner's decision to the director within 30 days of the date of receiving a copy of the commissioner's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, state the grounds for the appeal, and include a copy of the commissioner's decision. The appellant shall file a copy of the appeal with the commissioner at the same time it is filed with the director.

(2) The appellant and the commissioner may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the director, present the record of the hearing including written evidence that was submitted at the hearing and a written argument to the director stating grounds for affirming, modifying, or reversing the commissioner's decision.

(3) The director may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the director.

(5) The director shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the director finds substantial evidence in the record to support the commissioner's decision, the director shall affirm the decision.

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(6) The director shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the director may affirm the commissioner's decision, modify the commissioner's decision by reducing or increasing the amount of the penalty levied so that it is within the director's guidelines for imposing civil penalties, or reverse the commissioner's decision. Any civil penalty increased by the director shall not be higher than that proposed in the commissioner's notice of proposed action given pursuant to subdivision (b). A copy of the director's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Any person who does not request a hearing pursuant to subdivision (b) may not file an appeal pursuant to this subdivision.

(9) Review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) The commissioner may levy a civil penalty pursuant to subdivisions (a) to (c), inclusive, against a person violating paragraph (1), (2), or (8) of subdivision (a) of Section 1695 of the Labor Code, which pertains to registration with the commissioner, carrying proof of that registration, and filing changes of address with the commissioner.

(e) After the exhaustion of the appeal and review procedures provided in this section, the commissioner or his or her representative, may file a certified copy of a final decision of the commissioner that directs the payment of a civil penalty and, if applicable, a copy of any decision of the director or his or her authorized representative rendered on an appeal from the commissioner's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

SEC. 10. Section 15205 of the Food and Agricultural Code is amended to read:

15205. (a) Each registered structural pest control company shall make all existing records pertaining to pesticide and device use available to the director, the Structural Pest Control Board, or commissioner upon demand at the headquarters of

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the business during normal business hours. A registered structural pest control company or licensee may not prohibit onsite inspection for compliance with the Business and Professions Code and this division regarding pesticides and structural pest control devices and regulations adopted pursuant thereto. Except as provided in Section 8505.5 of the Business and Professions Code, nothing in this section shall be construed as requiring a registered structural pest control company or licensee to provide advance notice of the date, time, location of the application, type of device or pesticide application, or any other related information unless the information is contained in existing records available to the registered company or licensee, in which case the director, the Structural Pest Control Board, or commissioner may require that this information be produced at the company's place of business.

(b) Information and documents gathered by the director, the Structural Pest Control Board, or the commissioner pursuant to this section that are protected from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall remain confidential while in the director's, the board's, or the commissioner's possession.

(c) (1) "Device," for purposes of this section, means any method, instrument, or contrivance intended to be used to prevent, eliminate, destroy, repel, attract, or mitigate any wood destroying pest, but does not include firearms, pesticides as defined in Section 12753, or equipment used for the application of pesticides when sold separately from a pesticide.

(2) "Wood destroying pest," for purposes of this section, includes, but is not limited to, insects such as wood borers and termites. "Wood destroying pest" does not include wood-decaying fungi, general household pests such as cockroaches, or vertebrate pests such as rats and mice.

SEC. 11. Chapter 7.5 (commencing with Section 15300) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 7.5. STRUCTURAL PEST CONTROL DEVICES

Article 1. Definitions

15300. For the purposes of this chapter, the following definitions apply:

(a) "Structural pest control device" or "device" means any method, instrument, or contrivance intended to be used to prevent, eliminate, destroy, repel, attract, or

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mitigate any wood destroying pest, but does not include firearms, pesticides as defined in Section 12753, or equipment used for the application of pesticides when sold separately from a pesticide.

(b) "Wood destroying pest" includes, but is not limited to, insects such as wood borers and termites. "Wood destroying pest" does not include wood-decaying fungi, general household pests such as cockroaches, or vertebrate pests such as rats and mice.

Article 2. General Provisions

15301. (a) On and after July 1, 2001, it is unlawful for any person directly, or through another, to manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease, sell, lease, possess, or use any device in this state that is not registered pursuant to this chapter, or for which the registration has been suspended or canceled, except as provided in subdivision (b), any other provision of this chapter, regulations adopted by the director, or a notice or order of suspension or cancellation of a device.

(b) For devices in use in California prior to January 1, 2001, the director may grant reasonable extensions of time for the submission or review, or both the submission and review, of data in support of an application for registration. Before the director may grant an extension of time, the applicant shall have made a good faith effort to comply with the requirements of this chapter and shall demonstrate to the satisfaction of the director that circumstances beyond the applicant's control were the primary cause of the delay.

(c) This section does not apply to any device manufactured solely for export outside this state and which is so exported.

15302. The director shall regulate structural pest control devices.

15303. The director may adopt, amend, repeal, and enforce regulations relating to the regulation of devices and the administration of this chapter. When adopting regulations pursuant to this chapter, the director shall consider the safe use of devices and safe working conditions for persons handling, storing, or using devices or working in and about device treated areas.

Article 3. Device Registration

15305. (a) The director shall endeavor to prevent and eliminate from use in this

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state any device that meets any of the following criteria:

- (1) The device endangers human health or safety, property, or the environment.
- (2) The device is not beneficial or efficacious for the purposes for which it is manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used.
- (3) Is misrepresented.
- (b) The director may establish specific criteria to evaluate a device. The director may establish performance standards and tests of structural pest control devices, which are to be conducted by the applicant for registration, registrant, or parties interested in the registration of the device.
- (c) Before a device is registered, the director shall conduct, or cause to be conducted, a thorough and timely evaluation of the device. The director may impose reporting requirements and restrictions upon the use of a device, including, but not limited to, limitations on area and manner of application. The director may reevaluate any registered device.

15306. The director shall not determine a device to be beneficial or efficacious if any of the following exists:

- (a) The ability of the device to control pests falls below the standard or quality that the device is represented to have, or the device is of little or no value for the purpose for which it is intended.
- (b) Any component or subsystem that is necessary to the effectiveness of the device has been wholly or partially omitted in its manufacture, or other materials have been substituted for that component or subsystem.

15307. Every manufacturer of, importer of, vender of, or dealer in, any device, except a dealer or agent that sells a registered device, shall obtain a certificate of device registration from the director before the device is manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used, in this state, unless the device is used under a valid device research permit pursuant to Section 15314.

15308. Each applicant for registration of a device, at a minimum, shall submit all of the following:

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- (a) A completed application form prescribed by the director.
- (b) Proposed labeling for the device.
- (c) Valid data supporting each claim on the proposed label and supporting the safety of the device for each proposed labeled use.
- (d) A non-refundable application fee in the amount of two hundred dollars (\$200). The application fees shall be deposited in the Department of Pesticide Regulation Fund and shall be available, upon appropriation, for use by the department in administering this division.
- (e) Any other information required by regulation of the director.

15309. Within a timely manner after receipt of the information and fee specified in Section 15308, the director shall do one or more of the following:

- (a) Issue a certificate of device registration pursuant to Section 15310.
- (b) Notify the applicant that the submission is inadequate and specify the additional data that must be submitted and reviewed before a registration decision is rendered. In issuing a notification pursuant to this subdivision, the director may specify a reasonable time frame for the submission of the additional data, moneys, labeling, or information to avoid a requirement for submission of a new application and application fee.
- (c) Notify the applicant of the director's decision to deny registration.

15310. If an applicant for registration of a device complies with this chapter and the regulations that are adopted pursuant to this chapter, the director shall register the device and issue a certificate of device registration to the applicant authorizing the manufacture and sale of the device in this state.

15311. If the director finds that registration must be denied due to noncompliance with this chapter or the regulations that are adopted pursuant to this chapter, the director shall deny registration. Upon the request of the applicant, the director may hold a hearing to reconsider the director's decision to deny the application.

15312. Each applicant for a certificate of device registration shall inform the director of every brand and trademark of a device that the applicant intends to manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease,

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sell, lease, possess, or use. The director may require an applicant to identify each component in the device.

15313. The registrant of a device shall immediately notify the director of any proposed change to the device including, but not limited to, labeling composition, configuration method of application, and use of the device. The director shall determine whether the changes require the director's approval before the changed device may be manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used in this state. The director shall notify the registrant of this determination.

15314. The director may issue a device research permit for the scientific evaluation of new devices for a limited period of time determined by the director.

15315. (a) Pursuant to Sections 15305 and 15306, after providing notice to the device registrant or applicant of an opportunity to be heard, the director may cancel the registration of, or refuse to register, any device that meets any of the following criteria:

- (1) The director determines that the device has demonstrated serious uncontrollable adverse effects on human health or safety, property, or the environment.
- (2) The director determines that the use of the device is of less public value or greater detriment to the environment than the benefit received by its use.
- (3) The director determines that a false or misleading statement is made or implied by the registrant or his or her agent, or the applicant for registration, either verbally or in writing, or in the form of any advertising literature concerning the device.
- (4) The director determines that the registrant, or his or her agent, or applicant for registration has failed to report any adverse effect or risk as required by Section 15316.
- (5) The director determines that the registrant has failed to comply with the requirements of a reevaluation of the registrant's device.
- (6) The director determines that false information relating to the testing of the device, including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, was submitted to the director.

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(b) When taking action or making a determination pursuant to this section, the director may require practical demonstrations and scientific testing that the director finds are necessary to determine the facts. The demonstrations or testing shall be conducted by the applicant for registration, registrant, or parties interested in the device registration.

15316. If, during the registration process, or at any time after the registration of a device, the applicant or registrant has factual or scientific information showing any adverse effect or risk of the device to human health or safety, property, or the environment that has not been previously submitted to the director, the applicant for registration or the registrant, as the case may be, shall immediately submit the information to the director.

15317. If the director has reason to believe that any of the conditions stated in Section 15315 are applicable to any registered device and that the use or continued use of the device constitutes an immediate substantial danger to human health or safety, property, or the environment, the director, after notice to the registrant, may suspend the registration of that device pending a hearing and final decision. If the director does not file an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code within 30 days from the date of the suspension, the suspension shall be terminated.

15318. The director may cancel a certificate of device registration, or refuse to issue a certificate of device registration to any manufacturer, importer, or dealer in any device that repeatedly violates this chapter or the regulations of the director.

15319. Action by the director pursuant to Section 15305, 15311, 15315, 15317, or 15318 is not a condition precedent to the institution of any action to prosecute or levy a civil penalty for a violation of this chapter or regulations adopted pursuant to this chapter.

15320. (a) A registrant at any time may request that the registration of any of its devices be voluntarily canceled. The request shall be in writing to the director and shall include a waiver of the registrant's right to a hearing on the cancellation.

(b) The director shall mail a notice of voluntary cancellation of registration of the device to the registrant. The notice shall specify the effective date of the cancellation.

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Article 4. Labeling and Warranty

15325. The registrant of a device shall furnish printed directions for use on the label or shall enclose the printed directions with the device. The device label shall state the name, brand, or trademark, if any, under which the device will be sold and the name and address of the device manufacturer, importer, dealer, or vendor.

15326. (a) The registrant of a device may print limitations of warranty on the label with respect to the use of the device, as the registrant considers proper.

(b) Notwithstanding subdivision (a), no limitations of warranty by the device manufacturer, registrant, user, seller, lessor, or licensor shall exclude or waive either of the following implied warranties:

(1) That the device corresponds to all claims and descriptions that the registrant has made in print regarding the device.

(2) That the device is reasonably fit for use for any purpose for which it is intended according to any printed statement of the registrant.

15327. Except as otherwise provided in this chapter, the registrant is not liable for any injury or damage that is suffered solely by reason of any of the following:

(a) The use of the device for a purpose different from that represented by the label.

(b) The use of the device contrary to the printed directions of the registrant.

Article 5. Seizure

15330. (a) If any device is determined to be manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used in violation of any of the provisions of this chapter or any regulations adopted pursuant to this chapter, or if the device has been, or is intended to be, manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used in violation of those provisions, or when the registration of the device has been canceled by a final order or has been suspended, the director may issue a written "cease and desist" order to any person who owns, controls, or has custody of the device. After receipt of the cease and desist order, the receiver of the order shall not manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease, sell, lease, possess, or use the device described in the order except in accordance with the provisions of the order.

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(b) The director may seize or quarantine any device that meets any of the following criteria:

(1) The device is not registered pursuant to this chapter or any of the regulations adopted pursuant to this chapter.

(2) Any of the claims made for the device or any of the directions for its use differs in substance from the representation made in connection with its registration.

(3) The device is misbranded or mislabeled.

(4) When used in accordance with the requirements imposed under this chapter and as directed by the labeling or printed directions, the device nevertheless causes unreasonable adverse effects on human health, human safety, human welfare, property, or the environment.

(5) The device is manufactured for sale, advertised, delivered or otherwise provided, offered for sale or lease, sold, leased, possessed, or used in violation of a cease and desist order.

(6) The device is otherwise not in conformity with this chapter or the regulations adopted pursuant to it.

(c) After a device is seized or quarantined, the department shall provide the person from whom the device was seized or quarantined an opportunity for a hearing.

(1) If the director determines, after a hearing is held if requested, that the device can be brought into compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter, the director shall hold the device or continue the quarantine until the requirements of this chapter and the regulations adopted pursuant to this chapter have been complied with, at which time the device shall be released to the person from whom it was seized or the quarantine shall be lifted, as the case may be.

(2) If the director determines, after a hearing is held if requested, that the device cannot be brought into compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter, the director shall order the owner of the device to dispose of it in a manner prescribed by the director to protect human health, human safety, and human welfare and to accomplish the purposes of this chapter.

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Article 6. Device Usage

15331. The use of any device shall not conflict with the label on the device as registered pursuant to this chapter.

Article 7. Violations

15340. (a) Except as provided by subdivision (c), it is unlawful for any person directly, indirectly, or through another, to manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease, sell, lease, possess, or use any of the following:

(1) Any device that is not registered pursuant to this chapter, or whose registration has been canceled or suspended, except to the extent that the sale, lease, or other provision has been authorized by the director.

(2) Any registered device if any claim made for it as a part of its distribution or sale substantially differs from any claim made for it as a part of the information required in connection with its registration.

(3) Any registered device the configuration of which differs at the time of its sale, lease or other provision, or use from its configuration as described in the information required in connection with its registration.

(4) Any device that is misbranded or mislabeled.

(b) It is unlawful for any person directly, indirectly, or through another, to do any of the following:

(1) Violate any provision of this chapter and any rules or regulations adopted by the director pursuant to this chapter.

(2) Manufacture for sale, advertise, deliver or otherwise provide, offer for sale or lease, sell, lease, possess, or use any device, except in compliance with this chapter and regulations adopted pursuant to this chapter.

(3) Detach, alter, deface, or destroy, in whole or in part, any device labeling.

(4) Refuse to prepare, maintain, or submit any records or reports required by the director under this chapter or regulations adopted pursuant to this chapter for a registered device.

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(5) Use any registered device in a manner inconsistent with its registration and labeling.

(6) Use any device that is under a valid device research permit contrary to the provisions of that permit.

(7) Violate any order issued pursuant to this chapter.

(8) Knowingly falsify all or part of any application for registration, application for a device research permit, any information submitted to the director pursuant to this chapter, any records required to be maintained pursuant to this chapter, or any report filed under this chapter.

(9) Falsify all or part of any information relating to the testing of any device, including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the director, or that the person knows will be furnished to the director or will become a part of any records required to be maintained by this chapter or regulations adopted pursuant to this chapter.

(10) Submit to the director data known to be false in support of a registration.

(c) It is not a violation of subdivision (a) for any person to manufacture for sale, transport, or use any device pursuant to a valid research permit in effect with respect to that device and that use or possession.

SEC. 12. The Director of Pesticide Regulation may establish an ad hoc committee to advise the department regarding the structural pest control device registration program established pursuant to Chapter 7.5 (commencing with Section 15300) of Division 7 of the Food and Agricultural Code.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that

1998 Legislative Summary

AB 1134 (Machado) - Structural Pest Control Devices, Cont'd

the act takes effect pursuant to the California Constitution.

BILL NUMBER: AB 1998 (Thomson) - Agricultural chemical reduction pilot demonstration

CHAPTERED 09/14/98

CHAPTER 434

FILED WITH SECRETARY OF STATE SEPTEMBER 14, 1998

APPROVED BY GOVERNOR SEPTEMBER 12, 1998

PASSED THE ASSEMBLY AUGUST 18, 1998

PASSED THE SENATE AUGUST 6, 1998

AMENDED IN SENATE JULY 20, 1998

AMENDED IN SENATE JUNE 17, 1998

AMENDED IN ASSEMBLY MAY 26, 1998

AMENDED IN ASSEMBLY MARCH 30, 1998

INTRODUCED BY Assembly Member Thomson (Coauthors: Assembly Members Cardoza, Keeley, and Strom-Martin) (Coauthors: Senators Costa, Johannessen, Kelley, McPherson, and Monteith)

FEBRUARY 18, 1998

An act to amend Sections 592, 593, 594, 596, and 597 of, to add Section 591.5 to, and to repeal and add Sections 591, 599, and 600 of, the Food and Agricultural Code, relating to agricultural chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects.

Existing law requests the University of California to establish a program of pilot demonstration projects designed to provide extension services, training, and financial incentives for participating farms to reduce their use of chemicals for agricultural production. If the program is established, existing law requires the university to prepare a biennial report concerning the pilot demonstration projects and requires that the report include an analysis of the monitoring activities, summary and assessment data on pesticide and fertilizer use on each pilot demonstration project, and an analysis of the success of each project in meeting the standards for integrated farming systems. Existing law also declares the intent of the Legislature that a program advisory review board be appointed by the President of the University of California to consult with the program director in implementing the program. Under existing law, these provisions do not apply to the University of California unless the Regents of the University of California, by resolution, make them applicable.

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects.
Cont'd

This bill would establish within the University of California a program of pilot demonstration projects designed to provide extension services, training, and financial incentives for participating farmers to implement biologically integrated farming systems. The bill would establish a program advisory review board to consult with the university to carry out the duties related to the program. The bill would provide for a contract for a pilot demonstration project for a period of up to 5 years and would prohibit the commencement of new pilot demonstration projects on or after December 31, 2005. These provisions would not apply to the University of California unless the Regents of the University of California, by resolution, make them applicable.

SECTION 1. Section 591 of the Food and Agricultural Code is repealed.

SEC. 2. Section 591 is added to the Food and Agricultural Code, to read:

591. (a) The Legislature finds and declares all of the following:

(1) Successful farmers and ranchers adapt to changing circumstances through innovation and the incorporation of new information and practices, in order to improve their economic productivity and maintain the long-term sustainability of farmland and other natural resources.

(2) California's farmers and ranchers face increasing pressure to modify their use of water and agricultural chemicals, resulting from, among other things, implementation of the federal Food Quality Protection Act of 1996 (Public Law 104-170), the federal Central Valley Project Improvement Act (Public Law 102-575), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other state and federal rules.

(3) In 1995, the University of California established, pursuant to Chapter 1059 of the Statutes of 1994, a program of pilot demonstration projects called Biologically Integrated Farming Systems (BIFS), to demonstrate and expand the use of integrated farming systems as a means of building soil fertility while attempting to modify or reduce the use of agricultural chemicals.

(4) Biologically integrated farming systems provide some pollution prevention results, including reductions in surface water and groundwater contamination, air contaminant emissions, and particulate matter; and also promote practices that

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects.
Cont'd

decrease erosion and improve habitat for wildlife.

(5) Farmers and ranchers who are accomplished in managing biologically integrated farming systems are often willing and able to act as mentors for other farmers.

(b) It is the intent of the Legislature to expand and improve the BIFS program so that integrated farming systems can be applied to a greater number of crops and regions and to more widely disseminate information on how to implement integrated farming systems through science-based technical assistance and farmer-to-farmer information sharing.

SEC. 3. Section 591.5 is added to the Food and Agricultural Code, to read:

591.5. (a) For the purposes of this article, biologically integrated farming systems help provide soil fertility, pest control, pollution prevention, and environmental improvements through integration of some or all of the following elements:

(1) Relying on biological and cultural controls to protect crops from pest outbreaks and increase beneficial insect populations.

(2) Creating on-farm habitats and restoring riparian zones to harbor beneficial insect populations, reduce movement of pests to susceptible crops, and improve habitat for migrant birds and upland game species.

(3) Using cover crops to provide some or all of the nitrogen needed by crop plants, increase water infiltration of the soil, and decrease erosion and flooding.

(4) Directing overall attention to soil building practices, to improve crop nutrition, reduce soilborne pests, reduce reliance on chemical pesticides and fertilizers, and to provide additional scientific research and information on pest management and soil fertility.

(5) Using pest monitoring and decision thresholds for chemical applications, to avoid uneconomic applications of pesticides and fertilizers.

(6) Improving livestock management, reducing erosion, restoring native bunch grasses and other native plants, protecting riparian zones, and improving fish and wildlife habitat.

(b) For the purposes of this act, "program" means the Biologically Integrated

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects.
Cont'd

Farming Systems (BIFS) program.

SEC. 4. Section 592 of the Food and Agricultural Code is amended to read:

592. There is established within the University of California a program of pilot demonstration projects designed to provide extension services, training, and financial incentives for participating farmers to implement biologically integrated farming systems. In implementing the program, it is the intent of the Legislature that all of the following occur:

(a) The program should be designed to extend integrated farming systems through the proven technique of farmer-to-farmer communication, with technical support provided by farm advisers, scientists, pest control advisers, and certified crop advisers.

(b) The structure of each pilot demonstration project should be patterned, to the degree feasible, after the successful collaboration between the University of California and the Biologically Integrated Orchard Systems (BIOS) Program coordinated by the Community Alliance with Family Farmers in Merced, Stanislaus, Colusa, Madera, San Joaquin, Solano, and Yolo Counties.

(c) Pilot demonstration projects should be selected through a competitive process that supports the goals specified in Section 591.5. The proposals for the projects selected should include a description of the project's objectives, a workplan for the project's implementation, and a component for monitoring and evaluating the project's findings and results. The proposals should demonstrate the applicant's experience in the farming systems described in subdivision (a) of Section 591.5, should contain documented financial and technical support, and should provide for a breadth of private sector cost sharing.

(d) The program should make all feasible efforts to select projects involving a variety of commodities and cropping systems located in different counties.

(e) Funding for the program should consist of a combination of federal, state, and private sector funds. The Department of Pesticide Regulation shall provide fiscal oversight and shall allocate all program funds received, less 2 percent for administrative costs, to the University of California for purposes of implementing the pilot demonstration projects. The program may allocate up to 10 percent of program funds to support research related to biologically integrated farming systems.

1998 Legislative Summary

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects. Cont'd

SEC. 5. Section 593 of the Food and Agricultural Code is amended to read:

593. (a) There is established at the University of California a program advisory review board consisting of 13 members, appointed by the President of the University of California, or his or her designee, as follows:

(1) Ten members who are knowledgeable regarding the farming systems described in subdivision (b) of Section 591, as follows:

(A) Two representatives from the University of California.

(B) Two representatives from relevant federal agencies.

(C) Three growers.

(D) Two representatives of nonprofit organizations.

(E) One licensed pest control adviser.

(2) One member from each of the following:

(A) The Department of Pesticide Regulation.

(B) The Department of Food and Agriculture.

(C) The Pest Management Advisory Committee. This member shall be a public member who is not a government employee.

(b) The members of the review board shall serve without compensation but shall be paid necessary and proper expenses incurred in the performance of official duties.

SEC. 6. Section 594 of the Food and Agricultural Code is amended to read:

594. In order to administer and implement the program, the University of California, in consultation with the program advisory review board, shall perform the following duties:

(a) Develop policies and procedures to guide the implementation of the pilot demonstration projects. These policies and procedures shall include, but shall not be limited to, a mechanism for monitoring and summarizing pesticide and fertilizer

1998 Legislative Summary

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects. Cont'd

use for each project with an assessment of overall environmental impacts, including improvements in environmental quality on each project.

(b) Develop and issue requests for proposals for the pilot demonstration projects.

(c) Review and select the proposals to be funded.

(d) Annually review pilot demonstration projects and determine which projects shall be renewed.

SEC. 7. Section 596 of the Food and Agricultural Code is amended to read:

596. The contract for a pilot demonstration project shall be for a period of up to five years and shall be evaluated annually by the director of the program and the program advisory review board. The evaluation shall be based on an annual report submitted by the pilot project supervisor that documents changes in agricultural practices, agrichemical and water use, crop yields, environmental impacts, and monitoring data resulting from the pilot project. Funding for subsequent years of the contract shall be contingent upon adequate progress in those documented criteria, as determined by the director with the advice of the board, and continued grower participation in the pilot project.

SEC. 8. Section 597 of the Food and Agricultural Code is amended to read:

597. Not later than January 1, 2001, and biennially thereafter, the University of California shall report to the Pest Management Advisory Committee, appropriate policy and fiscal committees of the Legislature, and, upon request, any Members of the Legislature on the status of each of the pilot demonstration projects. The report shall include, but shall not be limited to, an analysis of the monitoring activities, summary and assessment data on pesticide, fertilizer, and water use on each pilot demonstration project, and an analysis of the success of each project in meeting the standards for integrated farming systems set forth in this article.

SEC. 9. Section 599 of the Food and Agricultural Code is repealed.

SEC. 10. Section 599 is added to the Food and Agricultural Code, to read:

599. New pilot demonstration projects may not be commenced on or after

1998 Legislative Summary

AB 1998, Thomson. Agricultural chemical reduction pilot demonstration projects. Cont'd

December 31, 2005. Until all funds available for the projects are encumbered, the University of California may continue to use available funds for projects that it commenced prior to December 31, 2005.

SEC. 11. Section 600 of the Food and Agricultural Code is repealed.

SEC. 12. Section 600 is added to the Food and Agricultural Code, to read:

600. No provision of this article applies to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

BILL NUMBER: AB 2179 (Special Committee on Assembly Legislative Ethics) - State agencies: ethics orientation

CHAPTERED 08/24/98

CHAPTER 364

FILED WITH SECRETARY OF STATE AUGUST 24, 1998

APPROVED BY GOVERNOR AUGUST 24, 1998

PASSED THE SENATE AUGUST 6, 1998

PASSED THE ASSEMBLY MAY 7, 1998

AMENDED IN ASSEMBLY APRIL 15, 1998

INTRODUCED BY Special Committee on Assembly Legislative Ethics
(Thomson (Democratic Chair), Ackerman (Republican Chair), Lempert, and Machado)

FEBRUARY 19, 1998

An act to add Article 12 (commencing with Section 11146) to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2179, Committee on Assembly Legislative Ethics. State agencies: ethics orientation.

Existing law requires that the appropriate ethics committees of the Legislature conduct at least semiannually an orientation course for Members of the Legislature and designated legislative employees on laws governing official conduct, and another orientation course for registered lobbyists on issues and laws relating to lobbying. Members of the Legislature, designated legislative employees, and registered lobbyists are required to attend these courses every 2 years.

This bill would require each state agency to offer at least semiannually, and certain state officials and employees to attend once every 2 years, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials.

SECTION 1. Article 12 (commencing with Section 11146) is added to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

AB 2179 (Special Committee on Assembly Legislative Ethics) - State agencies: ethics orientation, (Cont'd)

Article 12. State Agency Ethics Training

11146. For purposes of this article, the following terms have the following meanings:

(a) "State agency" has the same meaning as set forth in Section 82049, but does not include the Legislature.

(b) "Filer" means each member, officer, or employee of a state agency who satisfies both of the following requirements:

(1) The person holds any one of the following positions with the agency: an elected office, a position that is exempt from civil service, a career executive assignment, the position of executive director or its equivalent, or the position of general counsel or its equivalent.

(2) The person is required to file a statement of economic interests under either Article 2 (commencing with Section 87200) or Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 because of the position he or she holds with the agency.

11146.1. Each state agency shall offer at least semiannually to each of its filers an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials.

11146.2. Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to Section 11146.1 for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with subdivision (a) of Section 81008 and otherwise subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

11146.3. Except as set forth in Section 11146.4, each filer shall attend the orientation course required in Section 11146.1, as follows:

(a) For filers who hold a position with the agency on January 1, 1999, not later than December 31, 1999, and at least once during each consecutive two calendar years thereafter.

AB 2179 (Special Committee on Assembly Legislative Ethics) - State agencies: ethics orientation. (Cont'd)

(b) For persons who become a filer with the agency after January 1, 1999, within six months after they become a filer and at least once during each consecutive two calendar years thereafter.

11146.4. (a) The requirements of Section 11146.3 shall not apply to filers with a state agency who have taken an equivalent ethics orientation course through another state agency or the Legislature within the time periods set forth in subdivision (a) or (b) of Section 11146.3, as applicable.

(b) State agencies may jointly conduct and filers from more than one state agency may jointly attend an orientation course required by Section 11146.1, as long as the course content is relevant to the official duties of the attending filers.

(c) Before conducting each orientation course required by Section 11146.1, state agencies shall consult with the Fair Political Practices Commission and the Attorney General regarding appropriate course content.

BILL NUMBER: AB 2397 (Bowen) - Environmental quality waste disposal facilities
CHAPTERED 08/10/98

CHAPTER 272

FILED WITH SECRETARY OF STATE AUGUST 10, 1998

APPROVED BY GOVERNOR AUGUST 10, 1998

PASSED THE SENATE JULY 23, 1998

PASSED THE ASSEMBLY MAY 14, 1998

AMENDED IN ASSEMBLY APRIL 20, 1998

AMENDED IN ASSEMBLY APRIL 13, 1998

AMENDED IN ASSEMBLY MARCH 26, 1998

INTRODUCED BY Assembly Member Bowen

FEBRUARY 20, 1998

An act to amend Section 21066 of, and to add Section 21006 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2397, Bowen. Environmental quality waste disposal facilities.

(1) Existing law, the California Environmental Quality Act, requires a public lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect, unless the project is exempt from the act. For purposes of the act, a "person" is defined to include any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies or political subdivisions of those entities.

This bill would additionally include within that definition of "person" for purposes of the act, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions. The bill would impose a state-mandated local program by imposing new duties on local agencies with respect to determining whether specified projects would be covered by the act.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

AB 2397 (Bowen) - Environmental quality waste disposal facilities, (Cont'd)

This bill would provide that no reimbursement is required by this act for a specified reason.

SECTION 1. The Legislature finds and declares that the addition of Section 21006 to, and the amendment of Section 21066 of, the Public Resources Code by this act to include the United States or any of its agencies or political subdivisions within the definition of "person" for the purposes of the California Environmental Quality Act does not constitute a change in, but is declaratory of, existing law.

SEC. 2. Section 21006 is added to the Public Resources Code, to read:

21006. The Legislature finds and declares that this division is an integral part of any public agency's decisionmaking process, including, but not limited to, the issuance of permits, licenses, certificates, or other entitlements required for activities undertaken pursuant to federal statutes containing specific waivers of sovereign immunity.

SEC. 3. Section 21066 of the Public Resources Code is amended to read:

21066. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of those entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

**SB 661 (O'Connell) - Air monitoring plans: Lompoc.
CHAPTERED 08/10/98**

CHAPTER 274

FILED WITH SECRETARY OF STATE AUGUST 10, 1998
APPROVED BY GOVERNOR AUGUST 10, 1998
PASSED THE SENATE AUGUST 6, 1998
PASSED THE ASSEMBLY JULY 16, 1998
AMENDED IN ASSEMBLY JULY 6, 1998
AMENDED IN ASSEMBLY JUNE 4, 1998
AMENDED IN ASSEMBLY JULY 28, 1997
AMENDED IN ASSEMBLY JULY 9, 1997
AMENDED IN SENATE MAY 29, 1997
AMENDED IN SENATE MAY 20, 1997
AMENDED IN SENATE APRIL 28, 1997
AMENDED IN SENATE APRIL 16, 1997

INTRODUCED BY Senator O'Connell

FEBRUARY 25, 1997

An act relating to the Department of Pesticide Regulation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, O'Connell. Air monitoring plans: Lompoc.

Under existing law, there is in the California Environmental Protection Agency the Department of Pesticide Regulation, which is vested with specified duties, powers, purposes, and responsibilities related to the regulation of pesticides.

This bill would appropriate \$145,000 from the General Fund to the department for expenditure for purposes of implementing a two-stage air monitoring plan in the City of Lompoc as recommended by the Lompoc Interagency Work Group.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

SECTION 1. The sum of one hundred forty-five thousand dollars (\$145,000) is SB

661 (O'Connell) - Lompoc Air Monitoring, Cont'd

hereby appropriated from the General Fund to the Department of Pesticide Regulation for expenditure for purposes of implementing a two-stage air monitoring plan in the City of Lompoc as recommended by the Lompoc Interagency Work Group.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that funding for the implementation of the air monitoring plan in the City of Lompoc, as proposed by this act, may be made available at the earliest possible time, it is necessary that this act take effect immediately.

Section III - 1998 Vetoed Legislation: Summary

The following bills were tracked by DPR during the 1998 legislative session, passed by the Legislature, and sent to the Governor's desk. The following information provides a summary of those bills tracked by DPR as having potential to impact the pesticide regulatory program, which were ultimately vetoed by Governor Wilson.

Assembly Bills

AB 118 Cardenas - Medi-Cal treatments
(VETOED)

AB 118 was introduced on January 13, 1997 as a spot bill. The bill would have prohibited State agencies, including the California State University, from sending correspondence where an individual's social security number was visible from the outside of a sealed envelope. The bill would have also prohibited State agencies from sending unsealed correspondence that contained an individual's social security number. The bill was gutted when next amended on January 6, 1998 to address approval of Medi-Cal treatments for patients with terminal illnesses.

AB 278 Escutia - Environmental Protection: health effects
(VETOED)

This bill would amend the Health and Safety Code to require that the health of the public, including infants and children, be protected when adopting, setting, or evaluating certain ambient air quality standards, levels of and thresholds for non-pesticidal chemicals emitted into the ambient air, and primary drinking water standards and public health goals for contaminants in drinking water. These actions are to be based upon risk assessments conducted by the Office of Environmental Health Hazard Assessment (OEHHA) in consultation with the Department of Health Services (DHS), and the assessments are to include specific scientific considerations.

AB 1169 Shelley - Posting Information on Internet
(VETOED)

This bill would require the Resources Agency and every state agency within the Resources Agency to post, on an appropriate information page on the Internet, or on an appropriate existing website of any other state agency, specified information, including information concerning public meetings, as prescribed. The bill would require the agency to utilize the Internet, to the maximum extent that is fiscally and technologically possible, as an additional method for providing information to the public. The bill would authorize the Resources Agency to seek reimbursement from any other state agency for any costs that are incurred on that agency's behalf by the Resources Agency in connection with the requirements of the bill.

AB 2199 Washington - Conservation Education Service
(VETOED)

The bill would require the Conservation Education Service to encourage the development of educational opportunities related to natural resources, as specified, including factors affecting environmental quality, including environmental hazards.

AB 2231 Aroner - Fish and shellfish consumption advisories
(VETOED)

This bill would require a final fish consumption advisory issued by the Office of Environmental Health Hazard Assessment to contain information regarding the contamination hazards posed by fish and shellfish that are subject to that advisory and that are caught by recreational and subsistence fishers to be posted at appropriate public fishing locations and to be printed in languages that are primarily read or spoken by those who are recreational and subsistence fishers in the particular region where the advisories are posted.

The bill would require the department, to the extent that funds are available for these purposes, not later than 180 days from the date of issuance of a final fish consumption advisory, to encourage county health departments and other entities that have jurisdiction over public fishing locations to post multilingual fish consumption advisories in appropriate locations and to make available to local, state, and other public offices those advisories and related health advisory pamphlets provided by the department.

AB 2237 Escutia - Environmental Loans and Grants
(VETOED)

This bill would require "environmental agencies," which are defined as the California Environmental Protection Agency (Cal/EPA), the Resources Agency (Resources), and the Department of Health Services (DHS), to make available on the Internet specified information relating to loans and grants for environmental protection. The bill would require all member entities of Cal/EPA, Resources, and DHS to review the selection criteria for existing and future environmental loan and grant programs and, to the greatest extent practicable and permitted by law, incorporate into these criteria the adverse human health or environmental effects faced by an applicant's community and the amount of funding previously awarded by that environmental agency to

AB 2237, (Cont'd)

an applicant's community versus other applicants' communities.

AB 2339 Sweeney - Water Quality
(VETOED)

This bill would require the regional boards, for each enclosed bay or estuary, to complete the monitoring and surveillance required to adequately characterize the toxic hot spots and develop the consolidated data base, to the extent that funds for these purposes are appropriated in the annual Budget Act, and would revise the monitoring and surveillance program. The bill would, require the state board to submit the consolidated statewide toxic hot spot cleanup plan with a priority ranking of all toxic hot spots, and would revise requirements relating to the contents of the cleanup plans prepared by the state board and the regional boards, as prescribed.

AB 2404 Shelley - Sea Life Conservation Act
(VETOED)

This bill would enact the Sea Life Conservation Act requiring the Fish and Game Commission to study and revise marine management areas, as specified, so that they are designed and managed according to clear, conservation-based objectives and principles that extend to the creation of sea life reserves.

1998 Legislative Summary

Senate Bills

SB 658 Sher - Environmental Protection: peer review process: report
(VETOED)

Existing law requires the California Environmental Protection Agency (Cal/EPA) and each Board, Office, or Department within Cal/EPA to enter into an agreement with an external scientific peer review entity for any rule that is to be adopted. This bill would require Cal/EPA to submit to the Legislature an annual status report on its implementation of the external scientific peer review process.

SB 715 Sher - Environmental Quality
(VETOED)

This bill would place additional requirements on the Office of Planning and Research (OPR), the Resources Agency (Agency), and State agencies that have regulatory programs certified by the Secretary of the Agency under the California Environmental Quality Act. It would also require OPR to include specified activities in its public assistance and information program and make environmental documents available on the Internet; requires the Agency to make annual assessments and reports regarding State and local agency adopted mitigation measures; and requires State agencies to submit any proposed change in a certified regulatory program to the Agency Secretary for review.

SB 1047 Sher - Environmental Protection: regulatory implementation
(VETOED)

This bill requires the Office of Planning and Research (OPR) to post on the Internet: (1) the full text of the laws contained in the Public Resources Code that address environmental quality, (2) any proposed changes or amendments to the California Environmental Quality Act (CEQA) guidelines recommended by OPR, and (3) any proposed CEQA guidelines considered for certification and adoption by the Resources Agency.

SB 1453 Alpert - Water Quality: Nonpoint source pollution
(VETOED)

This bill would require the California Coastal Commission and the State Water Resources Control Board to establish a coastal nonpoint source pollution control program with specified components, and develop and

1998 Legislative Summary

SB 1453. (Cont'd)

implement management measures for nonpoint source pollution that protect and improve the quality of coastal waters.

SB 1942 Sher - School districts: least-toxic pest management practices (VETOED)

This bill would require the State of Department of Education (DOE) to contract to develop and publish a guidebook, as specified, for use by school districts on pest management practices that have been demonstrated to be effective, practical to implement, and minimize pesticide exposure to humans and the environment.

Veto Messages

Procedurally, the Governor provides the Legislature with a veto message when a bill is vetoed. The veto message is submitted to the house of the Legislature where the bill originated, ie, the Senate or the Assembly. The veto message generally explains the reason for the Governor's veto. The text of the veto messages for the bills tracked by DPR during the 1998 Legislative Session are provided on the following pages.

BILL NUMBER: AB 278 (Escutia) - Environmental Protection: health effects
VETOED DATE: 09/27/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 278 without my signature.

This bill would add the phrase "infants and children" to current law directing state agencies to set health-protective air quality standards; require an air monitoring pilot program at three locations around the state near a day care center or school and an evaluation of the air quality monitoring system in the aftermath of the pilot project; require adoption of control measures for toxic air contaminants by January 1, 2004; and require businesses located within 1,000 feet of a school or day care center to be inspected at least once a year, if that facility has more than one regulatory violation in five years' time.

Proponents argue that new scientific studies suggest that our standards must be re-evaluated, and that current practice depends on the use of safety factors (or uncertainty factors) that were developed as a technique by risk assessors more than 30 years ago. However, those same supporters fail to offer a single piece of evidence, scientific or otherwise, which suggests that California's standards are not protecting the health of all Californians, including infants and children. The studies referenced merely point out that children, like all Californians, are exposed to air pollution and that such exposure has health implications. In the absence of specific evidence that our standards are inadequate, supporters of this legislation have suggested that additional safety factors should be applied to our current standards to make sure infants and children are protected. In doing so, they advocate the very approach they criticize as anachronistic.

California has the most stringent air quality standards in the world. And State scientists are continually reviewing new scientific evidence to ensure that no emerging science calls into question the validity of those health-protective standards.

The most recent, comprehensive review of air quality standards-perhaps the most comprehensive review ever of all available science-was completed by U.S. EPA when it reviewed its ozone and particulate matter standards last year. The new standards were based solely on health data, without consideration for economic or technical considerations. Yet California's air quality standards are still more stringent than those proposed federal standards for smog and PM 10. This is further confirmation of California's conservative approach to health protective standards.

AB 278 (Escutia) - Environmental Protection: health effects, (Cont'd)

California laws, regulations and administrative practices appropriately focus on sensitive populations. Despite the rhetoric surrounding this bill, rarely do children and infants fit that definition. In fact, for five of the six federal ambient air pollutants, children are not the most sensitive population. This point was most succinctly stated by one of the bill's sponsors-the Natural Resources Defenses Council-when it correctly observed in its "Children At Risk" report issued less than a year ago that the elderly are at greatest risk from air pollution (page 33).

Certainly we do not know everything about the health effects of air pollution; some data gaps do exist. That's why during the first years of my administration, the Air Resources Board initiated a 10-year study of the chronic health effects of air pollution on children. This \$11.5 million study, conducted under the auspices of the USC School of Medicine, is tracking 5,000 children in a dozen Southern California communities and measuring the impacts of ambient air pollution on their health and development. The study is currently in its sixth year.

In addition, the Office of Environmental Health Hazard Assessment has nearly concluded a multi-year effort to develop guidelines for exposure assessment and stochastic analysis. These guidelines incorporate original research conducted under the auspices of the Air Resources Board and others, including water consumption rates, food consumption rates, breathing rates and soil ingestion rates-those physiological differences that AB 278's sponsors correctly point out make children unique when compared to adults. These guidelines will be completed and peer-reviewed by the State's Scientific Review Panel this fall.

These efforts will continue to inform the standard-setting process, and fulfill our commitment to improving the scientific underpinnings of our public health protection efforts.

Cordially,

PETE WILSON

BILL NUMBER: AB 1169 (Shelley) - Posting Information on Internet
VETOED DATE: 09/19/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 1169 without my signature.

This bill would require the Resources Agency and member agencies within it, to post on their Internet websites, any documents "disseminate [d] to the public" or "available in print to the public," and to maintain on that website meeting agenda and summary reports of meetings for one year.

Ambiguously drafted, this bill would appear to result in an obligation to place on the Internet virtually any document accessible to the public under the Public Records Act. Thus, any constituent correspondence sent to a member of the public and any internal memorandum, including inter-office memos, not exempt from disclosure under the Public Records Act would appear to have to be posted on the Internet. Each time a document is created, legal staff would have to spend time determining whether the document is subject to disclosure under the Public Records Act and other staff would have to post it on the Internet. Most of these documents would be of very little interest or value to the general public.

There is no justification for the human or computer resources that would be necessary to implement this bill. Each of the specific documents identified in this bill are readily available to the public. Those items not already available on the Agency's website can be obtained within ten days upon request under the Public Records Act, with the strong exception of Agency and departmental bill analyses submitted to the Governor. Under current law, those documents are exempt from disclosure under the Public Records Act and specifying such documents in the bill without amending the Public Records Act would unfairly mislead the public into assuming those documents are also accessible.

In sum, this bill would consume considerable taxpayer funds to post on the Internet, vast numbers of documents of little interest to the public and already available under the Public Records Act.

Cordially,

PETE WILSON

BILL NUMBER: AB 2199 (Washington) - Conservation Education Service
VETOED DATE: 09/13/98

To the Members of the California Assembly:

I am returning Assembly Bill 2199 without my signature.

This bill would make a minor change to law relating to conservation education.

Current law requires the State Department of Education to encourage the development of educational opportunities relating to the conservation, interpretation, and use of natural resources in the State of California and including, among other things, the development of education curriculum on factors affecting environmental quality. This bill states that factors affecting environmental quality include "environmental hazards."

This bill makes a change in law that is unnecessary and misleading. Clearly, environmental hazards are one of many factors which affect environmental quality. Adding this language will only send a signal that additional amendments are needed to list other possible factors.

Cordially,

PETE WILSON

BILL NUMBER: AB 2231 (Aroner) - fish and shellfish consumption advisories
VETOED DATE: 09/27/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 2231 without my signature.

This bill would require that a final fish consumption advisory issued by the Office of Environmental Health Hazard Assessment (OEHHA) regarding fish and shellfish contamination identify the contamination hazard, and be posted at public fishing locations in languages used by people that frequent those locations. The bill would also require the Department of Health Services (DHS) to make health advisory pamphlets available to state and local agencies.

This bill is ambiguous and unnecessary. OEHHA is currently authorized to produce fish advisories (Fish and Game Code (7715)). It is unclear what purpose would be served by restating that authority in the Health and Safety Code. It is also unclear whether this bill would require DHS to assume responsibility for posting these advisories, or if that responsibility would remain the responsibility of the local health departments. This lack of clarity could lead to confusion among affected agencies which could result in advisories not getting posted. Failure to post, as specified in the bill, could create an unintended liability for each of the jurisdictions.

Existing law ensures that public health is protected. The state should continue to issue its advisories in a clear, consistent manner, using its existing statutory authority, and local jurisdictions should retain the flexibility to determine the best method for warning fishermen of the dangers of eating contaminated fish.

Cordially,

PETE WILSON

BILL NUMBER: AB 2237 (Escutia) - Environmental Loans and Grants
VETOED DATE: 09/24/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 2237 without my signature.

This bill would require the California Environmental Protection Agency, the Resources Agency, and the Department of Health Services to incorporate so-called "environmental racism" or "environmental justice" issues in their selection criteria for environmental loans and grants. The bill would also require those agencies to place information on environmental loans and grants on the Internet in a form more easily understandable to prospective applicants.

While the goal of making better information more easily available is laudable, the bill is an ill-advised attempt to shift the primary focus of a simple grant or loan program aimed at improving the environment from an evaluation based on objective physical standards to one based upon a subjective assessment of socio-economic impact of pollution.

The evidence indicates that communities with the highest exposure to environmental risks are receiving State loans and grants. The State environmental laws do not provide separate, less stringent requirements, or lower standards in low-income communities.

Cordially,

PETE WILSON

BILL NUMBER: AB 2339 (Sweeney) - Water Quality
VETOED DATE: 09/24/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 2339 without my signature.

This bill would extend monitoring and surveillance activities for the State Water Resources Control Boards (SWRCB) Bay Protection and Toxic Cleanup Program (BPTCP) and would require the SWRCB and coastal Regional Water Quality Control Boards (RWCQB) to implement a consolidated, statewide cleanup plan to remediate identified toxic hot spots. The bill would also exempt dischargers from the requirements of the BPTCP cleanup plan if they are remediating or contributing to the cost of remediating these sites under other specified federal or state regulatory programs.

AB 2239 represents a step backwards in the BPTCP. Dischargers would be excused from being required to meet adopted water control standards if they participate or contribute in any way in another specified remediation plan. Those provisions are extremely broad, and could be used to let the biggest polluters off the hook for making only the slightest contribution to the cleanup effort. Requiring those dischargers to accept additional cleanup responsibilities would require the approval of the Site Designation Committee, a body created to settle issues of jurisdiction, not compliance.

Finally, the provision of this bill that call for implementation of the final plan "with all deliberate speed" could be interpreted to force immediate implementation. The existing process requires the plan to include findings and recommendations for the establishment of a toxic hot spot program (Water Code section 13394(i)). The purpose of this provision is to allow all affected stakeholders, including the public, the opportunity to review and evaluate every aspect of the completed plan, including scope, feasibility, and cost (including potential for recover of costs). To call for the implementation of a plan that has not been completed and for which a funding plan has not been identified would not only be premature, it would be irresponsible.

Cordially,

PETE WILSON

BILL NUMBER: AB 2404 (Shelley) - Sea Life Conservation Act
VETOED DATE: 09/29/98

To the Members of the California Assembly:

I am returning Assembly Bill No. 2404 without my signature.

This bill would Enact the Sea Life Conservation Act, which would require the Department of Fish and Game (Department) to prepare, or contract for the preparation of a study that identifies necessary modifications to existing marine managed areas (MMAs) and sea life reserves. The bill would require the Fish and Game Commission (Commission), on or before January 1, 2002, to adopt a plan to redesign and manage California's MMA's, following submission of the plan to the Joint Committee on Fisheries and Aquaculture for their review and comment. Once the plan is adopted, the Commission would be vested with the authority to regulate the taking of fish for any purpose, including commercial fishing, within an MMA.

This bill is unnecessary. The Resources Agency is the lead agency for the Marine Managed Areas Project Interagency Workgroup, whose goal is to make recommendations for changes in the existing sea life reserve system. This intergovernmental/academic approach was recommended in California's Ocean Resources: an Agenda for the Future, the Administration's strategy for the protection and management of California's ocean ecosystem, released in March of 1997. This interdisciplinary group is in the process of completing a report containing recommendations to improve the existing system of MMAs to develop a more effective and efficient consolidated system. Duplicating existing activities should be avoided rather than required where they will serve no useful purpose.

Cordially,

PETE WILSON

**BILL NUMBER: SB 658 (Sher) - Environmental Protection: peer review process:
report**

VETOED DATE: 08/21/98

To the Members of the California Senate:

I am returning Senate Bill No. 658 without my signature.

This bill would require the California Environmental Protection Agency to report annually on the scientific foundation of regulatory efforts which have been subjected to peer review, and the disposition of those efforts.

This bill is unnecessary. This information is already available, upon request, as a matter of public record. The codification of this report is unnecessarily bureaucratic and serves no public purpose.

Cordially,

PETE WILSON

BILL NUMBER: SB 715 (Sher) - Environmental Protection

VETOED DATE: 09/27/98

To the Members of the California Senate:

I am returning Senate Bill No. 715 without my signature.

This bill would require that any changes to the State's 15 programs certified as providing procedures equivalent to the California Environmental Quality Act (CEQA) be submitted to the Secretary for the Resources Agency for review. This bill would also require the Resources Secretary to report on the types and effectiveness of mitigation measures used by state and local agencies, and would require the Office of Planning and Research (OPR) to establish a central repository for CEQA notices of exemption, determination, preparation, or completion.

The changes proposed by this bill are unnecessary. Current law already provides for the submission of program changes that might alter the CEQA-equivalency certification to the Resources Secretary (Public Resources Code (21080.5(f))). Existing law requires agencies to report on and/or monitor the effectiveness of their mitigation measures (Public Resource Code (21081.6)). State agencies are already provided the opportunity to comment on projects and programs of potential statewide significance (Public Resource Code (21083)); the law is further buttressed by the CEQA Guidelines (14 C.C.R. Sec. 15206). Finally, OPR is already providing, via the Land Use Planning Information Network, additional public access to CEQA documents identified in the bill and continues to serve as a resource for planners throughout the State.

The safeguards contained in existing law have proven sufficient to maintain the integrity of the program with needed flexibility for administering agencies.

Cordially,

PETE WILSON

**BILL NUMBER: SB 1047 (Sher) - Environmental Protection:
regulatory implementation**

VETOED DATE: 09/12/98

To the Members of the California Senate:

I am returning Senate Bill No. 1047 without my signature.

This bill would require all provisions of the California Environmental Quality Act (CEQA) and the CEQA Guidelines, including proposed revisions to the Guidelines, to be made available on the Internet.

This bill is unnecessary. The Resources Agency already posts all relevant information required by this bill, including proposed changes to the Guidelines that are in the rulemaking process, on the Internet (<http://ceres.ca.gov/ceqa>). In addition, the CEQA homepage includes information relating to relevant statutes, case law, reference materials, and more.

This homepage is maintained in cooperation with the Governor's Office of Planning and Research, and has been well received and widely used by both public and private entities. Mandating its existence in statute would be superfluous.

Cordially,

PETE WILSON

BILL NUMBER: SB 1453 (Alpert) - Water Quality: nonpoint source pollution
VETOED DATE: 09/24/98

To the Members of the California Senate:

I am returning Senate Bill No. 1453 without my signature.

This bill would require the State Coastal Commission and the State Water Resources Control Board to develop and implement a coastal nonpoint source (N.S.) pollution control program as required by the federal Coastal Zone Act Reauthorization Amendments of 1990 (CARA). In addition, SB 1453 would require the Commission to recommend to the Office of Planning and Research revisions to the California Environmental Quality Act (CEQA) Guidelines.

The Water Board is currently implementing a three-tiered N.S. pollution control program which conforms with CZARA while emphasizing a statewide watershed management approach. As such, the enactment of this bill is not only unnecessary, it would require amendment to state statutes each time changes are made to federal laws. A similar bill was proposed and vetoed last year. Had that bill been signed, we would currently be contemplating new amendments to comply with the proposed changes being negotiated to modify certain program requirements, such as targeting of efforts and program implementation time lines. The previous message stands: duplicating federal law in state statutes should be avoided rather than required where it will serve no useful purpose.

Cordially,

PETE WILSON

BILL NUMBER: SB 1942 (Sher) - School districts: least-toxic pest management practices

VETOED DATE: 09/27/98

To the Members of the California Senate:

I am returning Senate Bill No. 1942 without my signature.

This bill would appropriate \$110,000 from the General Fund to the State Department of Education (SDE) to contract for the development and publication of an integrated pest management guidebook for school districts. The guidebook, which the SDE would be required to distribute to all public schools, would list pest management practices that minimize pesticide exposure to humans and the environment and have been scientifically and reliably demonstrated to be effective and practical to implement.

This bill is unnecessary. The Department of Pesticide Regulation (DPR) is responsible for statewide regulation of pesticide use, balancing the need to control pests with the protection of public health and the environment. As part of its Pest Management Alliance program, the DPR recently awarded a \$77,000 grant to the Self-Insured Schools of California, a risk management organization that will consolidate information on best school practices for reduced risk into a guidebook that helps school administrators make pest control decisions. The grant also provides for the creation of a computerized system for tracking pesticide use, developing a training and education curriculum for school districts, and production of an education for parents and community groups.

In addition, in 1993, the U.S. Environmental Protection Agency published an integrated pest management publication (Pest Control in the School Environment: Adopting Integrated Pest Management) which DPR distributed to every school district in this state. There is no justification for allocating funds to recreate information that is already available.

Cordially,

PETE WILSON

Section IV: 1998 Legislation: Failed, Died, or Withdrawn

The following bills were tracked by DPR during the 1998 legislative session as having potential to impact California's pesticide regulatory program. The following bills did not pass out of the Legislature. The bills either failed passage out of committee, died" due to failure to meet legislative deadline requirements, or were withdrawn by the bill's author.

Assembly Bills

AB 505 Ashburn - Pest Control Activities
(DIED)

This bill would emphasize pilot and worker safety and extend from 20 to 25 days the time an affected party can respond and request a hearing before the commissioner regarding a proposed action.

AB 891 Keeley - Pesticide Mill Assessment
(DIED)

This bill would reauthorize the mill assessment on the sales of pesticides in California, the major funding source of the DPR, at its existing level and would remove the existing sunset clause on mill assessment funding. Additionally, this bill would rename the mill assessment the "poisoning prevention tax", and the DPR Fund the "Poisoning Prevention Fund".

AB 1000 Keeley, et al. - Clean coastal waters and rivers: bond act
(DIED)

This bill would potentially raise bond monies that could be used by DPR to implement additional pollution prevention programs in coastal areas.

AB 1081 House - Property taxation: valuation: irrigated agricultural land
(DIED)

This bill would prohibit the county assessor, under specified conditions, from determining a higher value of improvements on land if those improvements consist of drip or sprinkler irrigation systems,

1998 Legislative Summary

AB 1081, (Cont'd)

tailwater return systems, or soil moisture measuring devices, which are installed for the purpose of water conservation.

AB 1179 Woods - Watershed rehabilitation and restoration: statewide plan (DIED)

This bill would require the Department of Forestry and Fire Protection (CDF) to develop a strategic statewide plan, as specified, to promote the rehabilitation and restoration of significant State watersheds. The bill would require CDF, with the concurrence of the State Water Resources Control Board and the Department of Fish and Game, to submit a report regarding the plan to the Legislature on or before January 1, 1999. The bill would also authorize CDF to grant up to \$10,000 to a county that is developing a watershed program or restoration project, as specified.

AB 1235 Leach - Review of Administrative Regulations (DIED)

This bill requires the State and Consumer Services Agency (SCSA) to review its regulations for duplication and consistency with other State and federal regulations by January 1, 2003, and every four years thereafter. If regulations are found to be duplicative or to overlap without providing an added benefit, SCSA is to repeal the regulations by January 1, 2203.

AB 1376 Baugh - Volatile Organic Compound Content of Consumer Products (DIED)

Existing law authorizes the State Air Resources Board (ARB) to restrict the emissions by consumer products of volatile organic compounds (VOCs). This bill eliminates the 3-year limitation on sales of consumer products manufactured prior to the enactment of ARB's regulations. In addition, the bill establishes criminal and civil penalties on persons who sell consumer products that are not in compliance with the statute of regulations adopted by ARB.

AB 1393 Alquist & Leonard - State and local government (DIED)

This bill mandates each State agency to conduct a performance audit of their activities and operations to identify waste, inefficiencies, and

AB 1393, (Cont'd)

redundancies. In addition, this bill would: (1) extend the mandatory completion deadline for performance audits, from two to four years from the effective date of the bill and adds a priority system for choosing agencies and departments for audit; (2) provide for an exemption for those agencies and departments which have had a qualifying or equivalent performance audit within five years; (3) expand the proposed Joint Performance Audit Task Force to include the Chairperson of the Joint Legislative Audit Committee; and (4) revise the role of the State Auditor to include participation in the publishing of an annual report on the status, implementation, recommendations, and relative savings resulting from performance audits and include also the development of audit parameters, guidelines, objectives, and other essential characteristics of performance audits.

AB 1948 Shelley - School Pesticide Right to Know Act of 1998
(DIED)

This bill requires certain pesticide applicators to report specific information to the Department of Pesticide Regulation regarding each pesticide that they apply at a school or day care center. In addition, the bill requires school administrators to maintain, and provide upon request, records of all pesticide use at school facilities for at least four years. School administrators must notify parents, if requested, at least 24 hours prior to a pesticide application, and post warning signs for a least 72 hours after a pesticide application.

AB 2308 House - Pesticide regulation
(WITHDRAWN BY DPR)

This bill was sponsored by the Department of Pesticide Regulation (DPR). Under current law, there is no specific code section which makes it unlawful for any person to prevent, delay, or refuse to permit any audit, inspection, investigation, sampling, or testing DPR is required or authorized to conduct under the Food and Agricultural Code and the California Code of Regulations. This legislation would clarify that the described conduct is unlawful and provides clear penalty provisions for violations.

1998 Legislative Summary

AB 2404 Shelley - Marine Resources: Sea Life Conservation Act
(FAILED PASSAGE)

The bill would enact the Sea Life conservation Act requiring the Fish and Game Commission to study and revise marine management areas, as specified, so that they are designed and managed according to clear, conservation-based objectives and principles that extend to the creation of sea life reserves.

AB 2455 Strom-Martin - Special environmental design license plates: fund
(FAILED PASSAGE)

This bill would require the 1/2 of the additional Environmental License Plate fees that are currently deposited in the California Environmental License Plate Fund to instead be deposited in the License Plate Coastal Access Account, which the bill would create, in the State Coastal Conservancy Fund of 1976. The bill would require the money in this new account to be available, upon appropriation, to the State Coastal Conservancy for grants to public agencies and nonprofit entities or organizations for specified purposes.

AB 2480 Prenter - Trade and Commerce Agency: Internet website
(FAILED PASSAGE)

This bill would require the Trade and Commerce Agency (TCA) to establish and maintain a publicly accessible Internet website to include all information on publicly available grant and loan programs, as specified. The bill would also require all State agencies to assist TCA to keep the site current.

AB 2502 Olberg - Land use: agriculture
(FAILED PASSAGE)

This bill would require the Trade and Commerce Agency to establish and maintain a publicly accessible website on the Internet, to include all information on publicly available grant and loan programs for local governments, businesses, and community-based organizations. It would require all state agencies, departments, boards, and commissions to assist the agency with necessary information and updates to keep the site current. It would also authorize the agency to provide other assistance and act as a public facilitator for public grant and loan access as funding allows.

1998 Legislative Summary

AB 2503 Goldsmith/McClintock - State agencies: continuation
(FAILED PASSAGE)

This bill abolished all State agencies as of January 1, 2005, unless: (1) the Legislature, by statute, authorizes continuation; (2) the agency came into existence after January 1, 1998; or (3) the agency is directly administered by an elected State officer, an elected governing board, or was established by the California Constitution. The Department of Pesticide Regulation would be forced to obtain reauthorization from the Legislature on or before January 1, 2005.

AB 2587 Ducheny, et al. - Wetlands protection: San Francisco Bay dredging
(DIED)

This bill would appropriate \$2 million from the General Fund to the Coastal Conservancy to finance wetlands acquisition, restoration and enhancement in upper Newport Bay and the Tijuana River Valley and re-appropriates approximately \$1.27 million in unspent funds from the Budget Act of 1993 to finance beneficial use of material dredged from the San Francisco Bay.

AB 2617 Figueroa - Toxic air contaminants: methyl bromide
(DIED)

Effective January 1, 2000, the bill prohibits the registration in California of any pesticide product containing methyl bromide. The bill requires the Department of Pesticide Regulation to submit a methyl bromide risk assessment document to the Scientific Review Panel and the Office of Environmental Health Hazard Assessment by January 31, 1999. The SRP and OEHHA are required to review the document by April 1, 1999. No later than May 1, 1999, the bill requires DPR to adopt methyl bromide control measures. In addition, the bill provides for the notification of residents and others regarding methyl bromide applications.

AB 2632 Thompson - Motor Vehicle fuel dispensing devices: retrofit
(DIED)

This bill would require the California Department of Food and Agriculture to make grants to gas station operators, as specified, to retrofit pumps to dispense ethanol and ethanol fuel blends.

1998 Legislative Summary

AB 2652 Cardoza, et al. - Agricultural burning: San Joaquin Valley air basin
(DIED)

This bill would permit the San Joaquin Valley Unified Air Pollution Control District, in consultation with the Air Resources Board (ARB), to develop guidelines to allocate the amount of agricultural burning that may be authorized on any day in the San Joaquin Valley air basin, whether or not the day is designated as a non-burning day. The bill would require that the guidelines be submitted to the ARB for promulgation without alteration.

AB 2666 Perata - Recycled water: grants
(DIED)

This bill would require the State Water Resources Control Board to award grants and enter into contracts to promote water recycling.

AB 2757 Committee on Agriculture - DPR: refunds
(DIED)

This bill would provide the Director of the Department of Pesticide Regulation with the authority to refund fees paid in error for four years after payment. The bill would also extend the statute of limitation for the Director to bring actions to collect unpaid mill assessment, delinquent fees, and selected civil penalties for up to four years to coincide with the period authorized for audit.

ACA 34 Poochigian - Property taxation: new construction: environmental improvements
(FAILED PASSAGE)

This measure would authorize the Legislature to exclude from classification as "new construction" the installation, construction, or modification of machinery, as specified, for the purpose of complying with federal, state, or local environmental laws, rules, and regulations.

ACA 35 Goldsmith - Legislature: overturning administrative regulations
(FAILED PASSAGE)

The bill amends the California Constitution to authorize the Legislature, by majority vote of each house, to repeal any regulation adopted or amended by a State agency.

1998 Legislative Summary

Senate Bills

SB 38 Johannessen - Taxation
(FAILED PASSAGE)

This bill would exempt from sales and use taxes gross receipts from the sale, storage, use, or other consumption in California of implements of husbandry that are purchased for use by a qualified person, as defined, in the conduct of agricultural operations. This bill would also, until January 1, 2005, establish a credit against taxes paid pursuant to the Personal Income Tax Law and the Bank and Corporation Tax Law during the taxable or income year for qualified property that is defined to include tangible personal property for use by a qualified taxpayer primarily for the conduct of agricultural operations. This bill would also prohibit the sales and use tax exemption established by this bill to be incorporated into local taxes.

SB 58 Ayala - State Agency Legislative Analysis
(DIED)

This bill would require State agencies to prepare and forward analyses of legislation that would significantly impact the agency to the bill's author and policy committee in each house, at least seven calendar days prior to the first committee hearing.

SB 134 Ayala - Public Records
(DIED)

This bill would make it a misdemeanor for a public officer to willfully provide a copy of a public record to another person if the officer knew the record was protected from disclosure under the California Public Records Act and that disclosure would cause invasion of privacy.

SB 178 Monteith - Scientific evidence in administrative hearings
(DIED)

This bill would amend the Administrative Procedure Act (APA) to restrict the admissibility of scientific evidence in State agency administrative hearings. The amendment imposes more onerous preconditions to the admissibility of such evidence in administrative proceedings than are required under current case law.

1998 Legislative Summary

SB 209 Kopp - Judicial Review
(FAILED PASSAGE)

This bill repeals existing procedures for judicial review of State and local agency actions. The bill adds provisions for judicial review of nongovernmental agency decisions, which meet certain conditions, and for judicial review of decisions and actions of state and local agencies and public corporations, with specified exceptions.

SB 261 Kopp - Judicial Review: Government Agency Actions
(FAILED PASSAGE)

This bill would change various laws to conform to SB 209 (Kopp), which repeals current procedures for judicial review of State and local agency decisions and adds new judicial review procedures. SB 261 would become operative only if SB 209 becomes operative on January 1, 1998.

SB 379 Rosenthal & Peace - Private Information: medical records
(DIED)

This bill would increase legal protection for confidentiality of medical records by adding: (1) a statement that the information will be used only for stated purposes; (2) a statement that unauthorized disclosure is prohibited and any improper release will be reported to the person who signed the authorization; (3) a date after which the authorization is no longer valid; and (4) a statement that the person signing the authorization has a right to a copy of the authorization.

SB 423 Hurtt - Environmental Audit Reports
(FAILED PASSAGE)

This bill would establish the Environmental Audit Privilege and Voluntary Noncompliance Disclosure Act of 1997. It would make an environmental audit privileged, and it would also make disclosure of information about violation of an environmental law to an environmental agency voluntary, resulting in limited immunity from civil and criminal penalties.

SB 442 Brulte - Toxic Chemicals: sensitive subpopulations
(DIED)

This bill would require OEHHA to develop guidelines for the evaluation

SB 442, (Cont'd)

of the effects of toxic chemicals upon sensitive subgroups of the general population. A group of distinguished nongovernmental scientists, as specified, would conduct a scientific peer review of the guidelines and make recommendations for changes to OEHHA, as appropriate.

SB 649 Mountjoy - Environmental regulations
(FAILED PASSAGE)

This bill would prohibit any local or State agency that revises the definition of best available control technology (BACT) or best available retrofit control technology (BARCT) from requiring a business that has been issued a permit for the installation of BACT or BARCT equipment to retrofit its equipment to the revised standard for five years from the effective date of the permit. This bill would also authorize a 10 percent credit against personal income and bank and corporation taxes for specified environmental quality expenses for each tax year beginning on or after January 1, 1998, and before January 1, 2003.

SB 1132 Polanco - Prisons: Prison Industry Authority
(FAILED PASSAGE)

This bill would revise the mission of the Prison Industry Authority to emphasize the employment of prisoners in enterprises that achieve a reduction in recidivism by improving the employability of the prison inmates assigned to its operations. The bill also would revise the makeup of the Prison Industry Board.

SB 1402 McPherson - Income and bank and corporation taxes: irrigation
(FAILED PASSAGE)

This bill would provide, under both laws, a credit, for taxable or income years beginning on or after January 1, 1998, and before January 1, 2003, in an amount equal to 15% of the cost paid or incurred, not to exceed specified amounts, by the taxpayer for the purchase and installation of qualified water application or distribution equipment, as defined, that is used in a business for the production of farm income and is installed on agricultural land in California that is owned or leased by the taxpayer at the time of installation.

1998 Legislative Summary

SB 1609 Ayala - State Forms - Public access telephone number
(DIED)

This bill would require each State form to include a public access telephone number of the State agency charged with administering the form.

SB 1704 Monteith - Pesticide corporate licensing, access, and refund authority
(Withdrawn)

This bill was sponsored by the Department of Pesticide Regulation (DPR), and would close loopholes in the existing three-year disqualification period for any individual or business who hold a license or certificate issued by the DPR that has been revoked or whose application for those licenses or certificates has been denied (for reasons other than for failure to satisfy application requirements or pass the required examinations). During the course of the 1998 legislative session, provisions of AB 2308 (Unlawful to Restrict Access) AB 2757 (Refund Authority), as described above, were amended into this bill. Hostile amendments placed in the bill near the end of the session caused Senator Monteith to withdraw the bill from consideration.

SB 1784 Hayden - California Biodiversity and Habitat Protection Act
(DIED)

This bill would enact the California Biodiversity and Habitat Protection Act and would require the Governor, on or before July 1, 1999, to convene an interagency task force to conserve candidate, threatened, and endangered species.

SB 1831 Kelley - Pesticides: purpose of law: compliance
(DIED)

This bill would specify that the purpose of law described in the Food and Agricultural Code for pesticides may include the development and use of compliance programs to carry out the stated purpose.

SB 1943 Sher - Fertilizer materials: hazardous waste recycling
(Failed Passage)

This bill would prohibit any person from distributing or selling a fertilizing material produced by the recycling of a hazardous waste

SB 1943, (Cont'd)

unless the person complies with specified notification requirements.

The bill would instead require wastes derived from ores and minerals to comply with the requirements imposed by the bill. The bill would also make technical reference changes. Since a violation of the requirements specified above would be a crime, the bill would impose a state-mandated local program. The bill would require the Department of Toxic Substances Control to submit to the Legislature, on or before March 1, 1999, a specified report relating to the recycling of hazardous wastes into fertilizing material.

SB 2119 Hurt, et al. - Reports to the Legislature: Internet access
(DIED)

Requires state and local agencies to make reports available on their Internet site and provide summaries to specified legislative entities. Specifically, this bill requires that any report required or requested by law to be submitted by a state or local agency to members of the Legislature or a committee of the Legislature shall be made available on the state or local agency's Internet website.

SB 2193 Knight - Drinking water
(DIED)

This bill would require the Resources Agency and its constituent agencies to be consistent with county public health ordinances, receive written approval from specified state agencies and form the authorized coal health officer (or similar local official), hold local hearings, and cover (or later reimburse) all local costs before treating a drinking water supply to eradicate an aquatic nuisance species in that water. An external peer review also would be required if the water to be treated is a "primary" drinking water supply. Only a county could grant a waiver from the requirements.

SJR 44 Monteith - Methyl bromide
(DIED)

This measure would memorialize the President and Congress to reconsider the federal imposition of a ban on the production and importation of methyl bromide scheduled to occur in 2001.

**Department of Pesticide Regulation
Office of Policy Coordination and Continuous Improvement**

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